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TITLE 6—AGRICULTURAL CREDIT

Chapter IV—Production and Marketing Administration and Commodity Credit Corporation, Department of Agriculture

Subchapter C—Loans, Purchases, and Other Operations

[1952 C. C. C. Grain Price Support Bulletin 1, Amdt. 2 to Supp. 1, Soybeans]

PART 601—GRAINS AND RELATED COMMODITIES

SUBPART—1952 CROP SOYBEAN LOAN AND PURCHASE AGREEMENT PROGRAM

SUPPORT RATES; MARSHALL COUNTY, MINNESOTA

The regulations issued by the Commodity Credit Corporation and the Production and Marketing Administration, published in 17 F. R. 5493, as amended by amendment published in 18 F. R. 869, and containing the specific requirements for the 1952-crop soybean price support program are hereby further amended as follows:

Section 601.2058 is amended by adding Marshall County to the commodity rates listed for Minnesota and by showing the rate per bushel for Marshall County, Minnesota to be $2.49 per bushel.

(Sec. 4, 62 Stat. 1070, as amended; 15 U. S. C. Sup. 714b. Interprets or applies sec. 5, 62 Stat. 1072, secs. 301, 401, 63 Stat. 1053; 15 U. S. C. Sup. 714c, 7 U. S. C. Sup. 1421, 1447)

Issued this 20th day of July 1953.

[SEAL] M. B. BRASWELL,
Vice President,
Commodity Credit Corporation.

JOHN H. DAVIS,
President,
Commodity Credit Corporation.

[F. R. Doc. 53-6508; Filed, July 22, 1953; 8:53 a. m.]

[1952 C. C. C. Cotton Bulletin 1, Amdt. 4]

PART 607—COTTON

SUBPART—1952 COTTON PRICE SUPPORT PROGRAM

MISCELLANEOUS AMENDMENTS

The regulation issued by Commodity Credit Corporation and the Production and Marketing Administration published in 17 F R. 4836 and containing the instructions and requirements with respect to the 1952 Cotton Price Support Program is hereby amended as follows:

1. Section 607.340 (a) is amended to provide that loan documents may be forwarded by the custodian (the agency or office shown on the Producer's Equity Transfer as the holder of the loan documents) to a trust or banking institution for collection, at the request of the holder of a Producer's Equity Transfer so that the amended paragraph (a) reads as follows:

§ 607.340 *Transfer of producer's interest*—(a) *Loans.* If a producer desires to sell his equity in one or more bales of cotton covered by a particular note, he may obtain a Producer's Equity Transfer (CCC Cotton Form AA) covering such bales only from the county committee in the county in which the cotton was produced. The purchaser of the equity will have seven days from the date of the equity transfer in which (1) to pay the amount due on the cotton or (2) to request in writing the custodian (the agency or office holding the loan documents as shown on the Producer's Equity Transfer in the item entitled "Loan Documents Held By") to forward the warehouse receipts to a trust or banking institution for collection. If the warehouse receipts are forwarded to a trust or banking institution for collection, the amount due on the cotton must be repaid within seven days from th date of forwarding of the warehouse receipts. If the amount due is not paid within the applicable prescribed period, the Producer's Equity Transfer shall be void and of no effect and if the warehouse receipts have been forwarded to a trust or banking institution for collection, such documents shall be returned to the custodian. No partial redemption of cotton listed on a Producer's Equity Transfer will be allowed. A producer may transfer his remaining interest in and right to redeem loan cotton only by the use of the prescribed Producer's Equity Transfer.

2. Section 607.341 is amended to provide for carrying loans in a past-due status through July 31, 1954, and to provide that CCC will purchase any cotton

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CODIFICATION GUIDE

A numerical list of the parts of the Code of Federal Regulations affected by documents published in this issue. Proposed rules, as opposed to final actions, are identified as such.

CODIFICATION GUIDE—Con.

on which loans have not been repaid as of August 1, 1954, so that the amended section reads as follows:

§ 607.341 *Maturity.* (a) Loans mature July 31, 1953, but will be carried in a past-due status through July 31, 1954. If a producer does not repay his loan on or before July 31, 1954, CCC will purchase the cotton securing the loan in accordance with the provisions of the loan agreements.

(b) Any sum due the producer as a result of the purchase of the cotton shall be payable only to the producer or his personal representative without right of assignment to or substitution of any other person.

(c) If the producer does not repay his farm storage loan on or before maturity, he may deliver the cotton in accordance with the provisions of Form FF, or he may retain possession of the cotton until July 31, 1954, unless the loan is called sooner, after which, unless the cotton has been delivered to a warehouse or the loan has been repaid, he will be required to deliver the cotton in accordance with the provisions of Form FF, and if the cotton is not delivered by the producer, the holder of the note may enter on the premises where the cotton is stored and remove the cotton. Upon such delivery or removal, the holder may, after July 31, 1954, purchase the cotton in accordance with the provisions of this section.

3. Section 607.349 (a) is amended to provide that producers may repay loans at any time prior to July 31, 1954, and secure the return of their collateral by requesting the PMA County Office of the county in which the cotton was produced to have the applicable loan documents forwarded to a bank or PMA County Office for collection, so that the amended paragraph (a) reads as follows:

§ 607.349 *Repayment of loans and delivery under purchase agreements*—(a) *Loans.* Producers may repay loans at any time through July 31, 1954, and secure return of their collateral. Partial releases will be allowed. A producer may request, in writing, the lending agency or the PMA county office, if such agency or office is holding the loan documents, to forward such loan documents to a trust or banking institution designated by him for collection. After the producer has been notified that the documents evidencing his loan have been placed in the custody of the New Orleans PMA Commodity Office, he should request (in person, by phone, or in writing) the PMA county office of the county in which the cotton was produced to have the applicable loan documents which are to be redeemed forwarded to a trust or banking institution or PMA county office designated by him for collection.

4. Section 607.352 is amended to provide that the New Orleans PMA Commodity Office will serve all cotton States so that the amended section reads as follows:

§ 607.352 *PMA Commodity Office.* The New Orleans PMA Commodity Office, Wirth Building, 120 Marais Street, New Orleans 16, Louisiana, will administer the field operations of the 1952 Cotton Price Support Program for all cotton-producing States.

(Sec. 4, 62 Stat. 1070, as amended; 15 U. S. C. Sup. 714b. Interpret or apply sec. 5, 62 Stat. 1072, secs. 101, 401, 63 Stat. 1051, 1054; 15 U. S. C. Sup. 714c, 7 U. S. C. Sup. 1441, 1421)

Issued this 20th day of July 1953.

[SEAL] HOWARD H. GORDON,
Executive Vice President,
Commodity Credit Corporation.

Approved:

JOHN H. DAVIS,
President,
Commodity Credit Corporation.

[F. R. Doc. 53-6507; Filed, July 22, 1953; 8:53 a. m.]

TITLE 7—AGRICULTURE

Chapter VII—Production and Marketing Administration (Agricultural Adjustment), Department of Agriculture

[1626 (Maryland-53)-1]

PART 727—MARYLAND TOBACCO

MARYLAND TOBACCO MARKETING QUOTA REGULATIONS, 1953–54 MARKETING YEAR

GENERAL

FARM MARKETING QUOTAS AND MARKETING CARDS

MARKETING OR OTHER DISPOSITION OF TOBACCO AND PENALTIES

RECORDS AND REPORTS

AUTHORITY: §§ 727.430 to 727.460 issued under sec. 375, 52 Stat. 66; 7 U. S. C. 1375. Interpret or apply 52 Stat. 38, 47, 48, 65, 66, as amended; 7 U. S. C. 1301, 1313, 1314, 1372, 1373, 1374, 1375.

GENERAL

§ 727.430 *Basis and purpose.* Sections 727.430 to 727.460 are issued pursuant to the Agricultural Adjustment Act of 1938, as amended, and govern the issuance of marketing cards, the identification of tobacco, the collection and refund of penalties, and the records and reports incident thereto on the marketing of Maryland tobacco during the 1953–54 marketing year. Prior to preparing §§ 727.430 to 727.460, public notice (18 F. R. 3329) of their formulation was given in accordance with the Administrative Procedure Act (5 U. S. C. 1003). The data, views, and recom-

mendations pertaining to §§ 727.430 to 727.460, which were submitted have been duly considered within the limits permitted by the Agricultural Adjustment Act of 1938, as amended.

§ 727.431 *Definitions.* As used in §§ 727.430 to 727.460, and in all instructions, forms, and documents in connection therewith, the words and phrases defined in this section shall have the meanings herein assigned to them unless the context or subject matter otherwise requires.

(a) "Act" means the Agricultural Adjustment Act of 1938, as amended.

(b) "Carry-over" tobacco means, with respect to a farm, tobacco produced prior to the beginning of the calendar year 1953, which has not been marketed or which has not been disposed of under § 727.443.

(c) "Committees".

(1) "Community committee" means the persons elected within a community as the community committee pursuant to the regulations governing the selection and functions of Production and Marketing Administration county and community committees.

(2) "County committee" means the persons elected within a county as the county committee pursuant to regulations governing the selection and functions of Production and Marketing Administration county and community committees.

(3) "State committee" means the persons designated by the Secretary as the State committee of the Production and Marketing Administration.

(d) "County office manager" means the person employed by the county committee to execute the policies of the county committee and be responsible for the day-to-day operations of the county PMA office, or the person acting in such capacity.

(e) "Dealer" or "buyer" means a person who engages to any extent in the business of acquiring tobacco from producers without regard to whether such person is registered as a dealer with the Bureau of Internal Revenue or any other authority.

(f) "Director" means Director or Acting Director, Tobacco Branch, Production and Marketing Administration, United States Department of Agriculture.

(g) "Farm" means all adjacent or nearby farm land under the same ownership which is operated by one person, including also:

(1) Any other adjacent or nearby farm land which the county committee, in accordance with instructions issued by the Assistant Administrator for Production, Production and Marketing Administration, determines is operated by the same person as part of the same unit with respect to the rotation of crops and with workstock, farm machinery, and labor substantially separate from that for any other lands; and

(2) Any field-rented tract (whether operated by the same or another person) which, together with any other land included in the farm, constitutes a unit with respect to the rotation of crops.

A farm shall be regarded as located in the county in which the principal dwelling is situated, or if there is no dwelling thereon it shall be regarded as located in the county in which the major portion of the farm is located.

(h) "Field assistant" means any duly authorized employee of the United States Department of Agriculture, and any duly authorized employee of a county PMA office whose duties involve the preparation and handling of records and reports pertaining to tobacco marketing quotas. In a hogshead tobacco warehouse, a person officially authorized by an individual, association, or firm who engages in receiving tobacco from farmers and who assists in the sale of such tobacco through such warehouse to keep records and make reports for such individual, association, or firm with respect to sales of tobacco through the warehouse shall perform the functions hereinafter prescribed for field assistants.

(i) "Floor sweepings" means scraps, leaves, or bundles of tobacco, generally of inferior quality, which accumulate on the warehouse floor and which not being subject to identification with any particular lot of tobacco are gathered up by the warehouseman for sale. Floor sweepings shall not include tobacco defined as "pick-ups."

(j) "Leaf account tobacco" means all tobacco purchased by or for a warehouseman and "leaf account" shall include the records required to be kept and copies of the reports required to be made under §§ 727.430 to 727.460 relating to tobacco purchased by or for a warehouseman and resales of such tobacco.

(k) "Market" means the disposition in raw or processed form of tobacco by voluntary or involuntary sale, barter, or exchange, or by gift inter vivos. "Marketing" and "marketed" shall have corresponding meanings to the term "market."

(l) "Nonwarehouse sale" means any first marketing of farm tobacco other than (1) by sale at public auction through a warehouse, or (2) by sale through a hogshead tobacco warehouse to a buyer other than the warehouseman, in the regular course of business.

(m) "Operator" means the person who is in charge of the supervision and conduct of the farming operations on the entire farm.

(n) "Person" means an individual, partnership, association, corporation, estate or trust, or other business enterprise or other legal entity, and wherever applicable, a State, a political subdivision of a State or any agency thereof.

(o) Pick-ups:

(1) "Pick-ups (a)" means any tobacco sorted and reclaimed from leaves or bundles which have fallen to the warehouse floor in the usual course of business.

(2) "Pick-ups (b)" means any tobacco previously purchased at auction but not delivered to the buyer because of-rejection by the buyer, lost ticket, or any other reason, and which is not turned back to a dealer other than the warehouseman, and shall include tobacco delivered to the buyer but returned by the buyer to the warehouseman, and not turned back by the warehouseman to a dealer.

(p) "Producer" means a person who, as owner, landlord, tenant, sharecropper, or laborer is entitled to share in the tobacco available for marketing from the farm or in the proceeds thereof.

(q) "Pound of tobacco" means one pound of tobacco weighed in its unstemmed form and in the condition in which it is usually marketed by producers.

(r) "Resale" means the disposition by sale, barter, exchange, or gift inter vivos, of tobacco which has been marketed previously.

(s) "Sale day" means the period at the end of which the warehouseman bills to buyers the tobacco so purchased during such period.

(t) "Scrap tobacco" means the residue which accumulates in the course of preparing tobacco for market, consisting chiefly of portions of tobacco leaves and leaves of poor quality.

(u) "Secretary" means the Secretary or Acting Secretary of Agriculture of the United States.

(v) "State administrative officer" means the person employed by the State committee to execute the policies of the State committee and be responsible for the day-to-day operations of the State PMA office, or the person acting in such capacity.

(w) "Suspended sale" means any first marketing of farm tobacco at a warehouse sale for which a memorandum of sale is not issued by the end of the sale day on which such marketing occurred.

(x) "Tobacco" means Maryland tobacco, type 32, as classified in the Service and Regulatory Announcement No. 118 (Part 30 of this title) of the Bureau of Agricultural Economics of the United States Department of Agriculture.

Any tobacco that has the same characteristics and corresponding qualities, colors, and lengths as Maryland tobacco shall be considered Maryland tobacco regardless of any factors of historical or geographical nature which cannot be determined by examination of the tobacco. Notwithstanding the foregoing definition of "tobacco" and the other provisions of §§ 727.430 to 727.460, inclusive, tobacco in hogsheads which at the close of business on September 30, 1953, is or was on such date physically in the State Tobacco Warehouse, Baltimore, Maryland, and which was produced prior to 1953, shall not be considered to be "tobacco" within the meaning of this subpart if the hogshead tobacco warehouseman has furnished a report to the State PMA committee showing the quantity of such tobacco and identifying symbols which identify each lot of such tobacco.

(y) "Tobacco available for marketing" means all tobacco produced on the farm in the calendar year 1953 plus any carry-over tobacco, less any tobacco disposed of in accordance with § 727.443.

(z) "Tobacco subject to marketing quotas" means any Maryland tobacco marketed during the period October 1, 1953, to September 30, 1954, inclusive, and any Maryland tobacco produced in the calendar year 1953 and marketed prior to October 1, 1953.

(aa) "Trucker" means a person who engages to any extent in the business of trucking or hauling tobacco for producers to a point where it may be mar-

keted or otherwise disposed of in the form and in the condition in which it is usually marketed by producers.

(bb) "Warehouseman" means a person who engages to any extent in the business of holding sales of tobacco at public auction at a warehouse. The term shall also include an individual, association, or firm who engages in receiving tobacco from farmers at the State Tobacco Warehouse, Baltimore, Maryland, and who assists in the sale of such tobacco through such warehouse.

(cc) "Warehouse sale" means a marketing of tobacco by a sale at public auction through a warehouse in the regular course of business, and shall include all lots or baskets of tobacco marketed in sequence at a given time. The term shall also include each marketing of farm tobacco through a hogshead tobacco warehouse to a buyer other than the warehouseman and each marketing of resale tobacco through such warehouse.

§ 727.432 *Instructions and forms.* The Director shall cause to be prepared and issued such forms as are necessary, and shall cause to be prepared such instructions as are necessary, for carrying out the regulations in this part. The forms and instructions shall be approved by, and the instructions shall be issued by, the Assistant Administrator for Production, Production and Marketing Administration.

§ 727.433 *Extent of calculations and rule of fractions.* (a) The acreage of tobacco harvested on a farm in 1953 shall be expressed in tenths, rounding upward all fractions of six hundredths of an acre or more and dropping all fractions of five hundredths of an acre or less. For example, 4.56 acres would be 4.6 acres, and 4.55 acres would be 4.5 acres.

(b) The percentage of excess tobacco available for marketing from a farm, hereinafter referred to as the "percent excess," shall be expressed in tenths and fractions of less than one-tenth shall be dropped. For example, 12.59 percent would be 12.5 percent.

(c) The amount of penalty per pound upon marketings of tobacco subject to penalty, hereinafter referred to as the "converted rate of penalty," shall be expressed in tenths of a cent and fractions of less than a tenth shall be dropped, except that if the resulting converted rate of penalty is less than a tenth of a cent, it shall be expressed in hundredths and fractions of less than a hundredth shall be dropped. For example, 3.68 cents per pound would be 3.6 cents and 0.068 cent per pound would be 0.06 cent.

FARM MARKETING QUOTAS AND MARKETING CARDS

§ 727.434 *Amount of farm marketing quota.* (a) The marketing quota for a farm shall be the actual production of tobacco on the farm acreage allotment, as established for the farm in accordance with §§ 727.411 to 727.429, 1023 (Maryland-53)-3, Maryland Tobacco Marketing Quota Regulations, 1953-54 (17 F. R. 6622) The actual production of the farm acreage allotment shall be the average yield per acre of the entire acreage of tobacco harvested on the farm in 1953 times the farm acreage allotment.

(b) The excess tobacco on any farm during the 1953-54 marketing year shall be that quantity of tobacco which is equal to the average yield per acre of the entire acreage of tobacco harvested on the farm in 1953 times the number of acres harvested in excess of the 1953 farm acreage allotment. (The excess tobacco on any farm during the 1954-55 marketing year will be (1) that quantity of tobacco which is equal to the average yield per acre of the entire acreage of tobacco harvested on the farm in 1954 times the number of acres harvested in excess of the 1954 farm acreage allotment, plus (2) any excess carry-over tobacco for the farm.) The acreage of tobacco determined for a farm for the purpose of issuing the correct marketing card(s) for the farm, as provided in § 727.436, shall be considered the harvested acreage for the farm unless the farm operator furnishes proof satisfactory to the county committee that a portion of the acreage planted will not be harvested or that a representative portion of the production of the acreage harvested will be disposed of other than by marketing.

§ 727.435 *Transfer of farm marketing quota.* There shall be no transfer of farm marketing quotas except as provided in §§ 727.421 and 727.427 of the Maryland tobacco marketing quota regulations for determining acreage allotments and normal years, 1953-54 marketing year.

§ 727.436 *Issuance of marketing cards.* A marketing card shall be issued for each farm having 1953 crop tobacco available for marketing. Subject to the approval of the county office manager, two or more marketing cards may be issued for any farm for use in marketing 1953 crop tobacco produced on the farm. All entries on each marketing card shall be made in accordance with the instructions for issuing marketing cards. Upon the return to the county PMA office of the marketing card issued with respect to the 1953 crop after all of the memoranda of sale have been issued therefrom and before the marketing of the 1953 crop tobacco from the farm has been completed, a new marketing card of the same kind, bearing the same name, information and identification as the used card shall be issued for the farm for use in marketing 1953 crop tobacco produced on the farm. A new marketing card of the same kind shall be issued to replace a card which has been determined by the county office manager to have been lost, destroyed or stolen.

A marketing card shall be issued for each farm having carry-over tobacco available for marketing. Such card shall be marked "Carry-Over" shall show the number of pounds and location of such carry-over tobacco as of October 1, 1953, and shall be signed by the farm operator. Subject to the approval of the county office manager, two or more marketing cards, so marked and signed, may be issued for any farm for use in marketing carry-over tobacco. All entries on each marketing card shall be made in accordance with the instructions for issuing marketing cards. Upon the return to the county PMA office of the marketing card issued with respect to carry-over tobacco after all of the memoranda of sale have been issued therefrom and before the marketing of the carry-over tobacco from the farm has been completed, a new marketing card of the same kind, bearing the same name, information and identification as the used card shall be issued for the farm for use in marketing carry-over tobacco from the farm. A new marketing card of the same kind shall be issued to replace a card which has been determined by the county office manager to have been lost, destroyed or stolen.

(a) *Within Quota Marketing Card (MQ-76—Tobacco).* A Within Quota Marketing Card authorizing the marketing without penalty of the 1953 crop tobacco available for marketing shall be issued for a farm under the following conditions:

(1) If the harvested acreage of tobacco in 1953 is not in excess of the 1953 farm acreage allotment;

(2) If all the excess tobacco produced in 1953 on the farm is disposed of in accordance with § 727.443 (b) or

(3) If the tobacco was grown for experimental purposes on land owned or leased by a publicly owned agricultural experiment station and is produced at public expense by employees of the experiment station, or if the tobacco was produced by farmers pursuant to an agreement with a publicly owned experiment station whereby the experiment station bears the costs and risks incident to the production of the tobacco and the proceeds from the crop inure to the benefit of the experiment station: *Provided,* That such agreement is approved by the State committee prior to the issuance of a marketing card for the farm.

(b) *Within Quota Marketing Card (MQ-76—Tobacco) marked "Carry-Over"* A Within Quota Marketing Card marked "Carry-Over" authorizing the marketing without penalty of carry-over tobacco only from the farm shall be issued for a farm with respect to which there is carry-over tobacco.

(c) *Excess Marketing Card (MQ-77—Tobacco)* An excess Marketing Card showing the extent to which marketings of 1953 crop tobacco from a farm are subject to penalty shall be issued for a farm under the following conditions:

(1) If the harvested acreage of tobacco in 1953 is in excess of the 1953 farm acreage allotment, and the excess tobacco representative of the entire 1953 crop is not disposed of in accordance with § 727.443 (b), or

(2) If the farm operator fails to disclose, or otherwise furnish, or prevents the representative of the county committee from obtaining, any information necessary to the issuance of the correct marketing card for the 1953 crop in which case an excess marketing card shall be issued for the farm showing that all tobacco from the 1953 crop is subject to the rate of penalty determined by the Secretary pursuant to § 727.445.

§ 727.437 *Person authorized to issue cards.* The county office manager shall be the issuing officer and shall sign marketing cards for farms in the county.

The issuing officer may designate not more than three persons to sign his name in issuing marketing cards: *Provided,* That each such person shall place his initials immediately beneath the name of the issuing officer as written by him on the card.

§ 727.438 *Rights of producers in marketing cards.* Each producer having a share in the tobacco available for marketing from a farm shall be entitled to the use of the marketing card issued for the farm for marketing his proportionate share.

§ 727.439 *Successors in interest.* Any person who succeeds in whole or in part to the share of a producer in the tobacco available for marketing from a farm shall, to the extent of such succession, have the same rights as the producer to the use of the marketing card for the farm.

§ 727.440 *Invalid cards.* (a) A marketing card shall be invalid if:

(1) It is not issued or delivered in the form and manner prescribed;

(2) Entries are omitted or incorrect;

(3) It is lost, destroyed, stolen, or becomes illegible; or

(4) Any erasure or alteration has been made, and not properly initialed.

(b) In the event any marketing card becomes invalid (other than by loss, destruction, or theft, or by omission, alteration or incorrect entry which cannot be corrected by a field assistant) the farm operator, or the person having the card in his possession, shall return it to the county PMA office at which it was issued.

(c) If any entry is not made on a marketing card as required, either through omission or incorrect entry, and the proper entry is made and initialed by a field assistant, then such card shall become valid.

§ 727.441 *Report of misuse of marketing card.* Any information which causes a field assistant, a member of a State, county, or community committee, or an employee of a State or county PMA office, to believe that any tobacco which actually was produced on one farm has been or is being marketed under the marketing card issued for another farm shall be reported immediately by such person to the county or State PMA office.

MARKETING OR OTHER DISPOSITION OF TOBACCO AND PENALTIES

§ 727.442 *Extent to which marketings from a farm are subject to penalty.* (a) Marketings of 1953 crop tobacco from a farm shall be subject to penalty by the percent excess determined as follows: Divide the acreage of tobacco harvested in excess of the farm acreage allotment and not disposed of under § 727.443 by the total acreage of tobacco harvested from the farm.

(b) For the purpose of determining the penalty due on each marketing by a producer of tobacco subject to penalty, the converted rate of penalty per pound shall be determined by multiplying the rate of penalty determined by the Secretary pursuant to §727.445 by the percent excess obtained under paragraph (a) of this section. The memorandum of sale issued to identify each such marketing shall show the amount of penalty due.

§ 727.443 *Disposition of excess tobacco.* The farm operator may elect to give satisfactory proof of disposition of excess tobacco prior to the marketing of any 1953 crop tobacco from the farm by either of the following methods:

(a) By storage of all the excess tobacco, the tobacco so stored to be representative of the entire 1953 crop produced on the farm, and posting of a bond approved by the county committee in the penal sum of twice the rate of penalty per pound determined by the Secretary pursuant to § 727.445 times the quantity of excess tobacco stored. Penalty at the applicable full rate per pound on marketings of excess tobacco shall become due upon the removal from storage of the excess tobacco, except that an amount of such tobacco in storage equal to the normal production of the acreage by which the 1954 harvested acreage for the farm is less than the 1954 allotment may be removed from storage and marketed penalty free.

(b) By furnishing to the county committee satisfactory proof that excess tobacco representative of the entire crop will not be marketed.

§ 727.444 *Identification of marketings.* Each marketing of tobacco from a farm shall be identified by an executed memorandum of sale from the 1953 marketing card (MQ–76—Tobacco or MQ–77—Tobacco) issued for the farm on which the tobacco was produced. In addition, in the case of nonwarehouse sales, each marketing shall also be identified by an executed bill of nonwarehouse sale (reverse side of memorandum of sale) A separate memorandum from a marketing card marked "Carry-over" issued for the farm shall be executed with respect to each marketing of tobacco produced prior to 1953, and the words "old crop" will be entered by the warehouseman or buyer on each such memorandum executed with respect to a marketing of tobacco produced prior to 1953.

(a) *Memorandum of sale.* (1) If a memorandum of sale is not executed to identify a warehouse sale of producer's tobacco by the end of the sale day on which the tobacco was marketed, the marketing shall be a suspended sale, and, unless a memorandum identifying the tobacco so marketed is executed on or before the last warehouse sale day of the marketing season, or within four weeks after the date of marketing, whichever comes first, the marketing shall be identified by MQ–82—Tobacco, Sale Without Marketing Card, as a marketing of excess tobacco. The memorandum of sale or MQ–82—Tobacco shall be executed only by a field assistant or other representative of the State administrative officer with the following exceptions:

(i) A warehouseman, or his representative, who has been authorized on MQ–78—Tobacco, may issue a memorandum of sale to identify a warehouse sale if a field assistant is not available at the warehouse when the marketing card is presented. Each memorandum of sale issued by a warehouseman to cover a warehouse sale shall be presented promptly by him to the field assistant for verification with the warehouse records.

(ii) A tobacco dealer who buys tobacco direct from farmers, who resells such tobacco through a hogshead tobacco warehouse and who keeps records showing the information specified in § 727.452, and who has been authorized on MQ–78—Tobacco to issue memoranda of sale, may issue a memorandum of sale covering a purchase of such tobacco only if the bill of nonwarehouse sale has been executed. Such dealer may also execute MQ–82—Tobacco, where applicable, under the circumstances specified in this section.

(2) The authorization on MQ–78—Tobacco to issue memoranda of sale may be withdrawn by the State administrative officer from any warehouseman or dealer if such action is determined to be necessary in order to properly enforce the provisions of §§ 727.430 to 727.460. The authorization shall terminate upon receipt of written notice setting forth the reason therefor.

(3) Each excess memorandum of sale issued by a field assistant shall be verified by a warehouseman or dealer (or his representative) to determine whether the amount of penalty shown to be due has been correctly computed and such warehouseman or dealer shall not be relieved of any liability with respect to the amount of penalty due because of any error which may occur in executing the memorandum of sale.

(b) *Bill of nonwarehouse sale.* (1) Each nonwarehouse sale shall be identified by a bill of nonwarehouse sale completely executed by the buyer and the farm operator.

(2) Each bill of nonwarehouse sale covering any marketing (except as described under paragraph (a) (1) (ii) of this section) shall be presented to a field assistant for the issuance of a memorandum of sale and for recording in MQ–79—Tobacco.

§ 727.445 *Rate of penalty.* (a) The penalty per pound upon marketings of excess tobacco subject to marketing quotas shall be forty (40) percent of the average market price (calculated to the nearest whole cent) for Maryland tobacco for the 1952–1953 marketing year, as determined by the Secretary.

(b) With respect to tobacco marketed from farms having excess tobacco available for marketing the penalty shall be paid upon that percentage of each lot of 1953 crop tobacco marketed which the 1953 crop tobacco available for marketing in excess of the farm quota is of the total amount of 1953 crop tobacco available for marketing from the farm.

§ 727.446 *Persons to pay penalty.* The person to pay the penalty due on any marketing of tobacco subject to penalty shall be determined as follows:

(a) *Warehouse sale.* The penalty due on marketings by a producer through a warehouse shall be paid by the warehouseman who may deduct an amount equivalent to the penalty from the price paid to the producer.

(b) *Nonwarehouse sale.* The penalty due on tobacco purchased directly from a producer other than (1) by sale at public auction through a warehouse, or

(2) by sale through a hogshead tobacco warehouse to a buyer other than the warehouseman, in the regular course of business, shall be paid by the purchaser of the tobacco who may deduct an amount equivalent to the penalty from the price paid to the producer;

(c) *Marketings through an agent.* The penalty due on marketings by a producer through an agent who is not a warehouseman shall be paid by the agent who may deduct an amount equivalent to the penalty from the price paid to the producer.

(d) *Marketings outside the United States.* The penalty due on marketings by a producer directly to any person outside the United States shall be paid by the producer.

§ 727.447 *Marketings deemed to be excess tobacco.* Any marketing of tobacco under any one of the following conditions shall be deemed to be a marketing of excess tobacco:

(a) *Warehouse sale.* Any warehouse sale of tobacco by a producer which is not identified by a valid memorandum of sale on or before the last warehouse sale day of the marketing season or within four weeks following the date of marketing, whichever comes first, shall be identified by a MQ–82—Tobacco, and shall be deemed to be a marketing of excess tobacco. The penalty thereon shall be paid by the warehouseman.

(b) *Nonwarehouse sale.* Any nonwarehouse sale which (1) is not identified by a valid bill of nonwarehouse sale (reverse side of memorandum of sale) and (2) is not also identified by a valid memorandum of sale and recorded in MQ–79—Tobacco within one week following the date of purchase, or, if purchased prior to the opening of the local auction markets (if the tobacco is not to be resold through a hogshead tobacco warehouse) is not identified by a valid memorandum of sale and recorded in MQ–79—Tobacco within one week following the first sale day of the local auction markets, shall be deemed to be a marketing of excess tobacco. The penalty thereon shall be paid by the purchaser of such tobacco.

(c) *Leaf account tobacco.* The part or all of any marketing by a warehouseman which such warehouseman represents to be a leaf account resale but which when added to prior leaf account resales, as reported under §§ 727.430 to 727.460, is in excess of prior leaf account purchases shall be deemed to be a marketing of excess tobacco unless and until such warehouseman furnishes proof acceptable to the State committee showing that such marketing is not a marketing of excess tobacco. The penalty thereon shall be paid by the warehouseman.

(d) *Dealer's tobacco.* The part or all of any marketing of tobacco by a dealer which such dealer represents to be a resale but which when added to prior resales by such dealer is in excess of the total of his prior purchases as reported on MQ–79—Tobacco shall be deemed to be a marketing of excess tobacco unless and until such dealer furnishes proof acceptable to the State committee showing that such marketing is not a marketing of excess tobacco. The penalty thereon shall be paid by the dealer.

(e) *Marketings not reported.* Any resale of tobacco which under §§ 727.430 to 727.460 is required to be reported by a warehouseman or dealer but which is not so reported within the time and in the manner required by §§ 727.430 to 727.460 shall be deemed to be a marketing of excess tobacco unless and until such warehouseman or dealer furnishes a report of such resale which is acceptable to the State committee. The penalty thereon shall be paid by the warehouseman or dealer who fails to make the report as required.

(f) *Producer marketings.* If any producer falsely identifies or fails to account for the disposition of any tobacco produced on a farm, an amount of tobacco equal to the normal yield of the number of acres harvested in 1953 in excess of the farm acreage allotment shall be deemed to have been a marketing of excess tobacco from such farm. The penalty thereon shall be paid by the producer.

§ 727.448 *Payment of penalty.* (a) Penalties shall become due at the time the tobacco is marketed, except in the case of tobacco removed from storage as provided in § 727.443 (a), and shall be paid by remitting the amount thereof to the State PMA Office for the State in which the warehouse is located not later than the end of the calendar week following the week in which the tobacco became subject to penalty. A draft, money order, or check drawn payable to the Treasurer of the United States may be used to pay any penalty, but any such draft or check shall be received subject to payment at par.

(b) If the penalty due on any warehouse sale of tobacco by a producer as determined under §§ 727.430 to 727.460 is in excess of the net proceeds of such sale (gross amount for all lots included in the sale less usual warehouse charges), the amount of the net proceeds accompanied by a copy of the warehouse bill covering such sale may be remitted as the full penalty due. Usual warehouse charges shall not include (1) advances to producers, (2) charges for hauling, or (3) any other charges not usually incurred by producers in marketing tobacco through a warehouse.

(c) Nonwarehouse sales shall be subject to the converted rate of penalty for the farm on which the tobacco was produced without regard to the net proceeds of the sale.

§ 727.449 *Request for return of penalty.* Any producer of tobacco after the marketing of all tobacco available for marketing from the farm and any other person who bore the burden of the payment of any penalty may request the return of the amount of such penalty which is in excess of the amount required under §§ 727.430 to 727.460 to be paid. Such request shall be filed with the county PMA office within two (2) years after the payment of the penalty.

RECORDS AND REPORTS

§ 727.450 *Producer's records and reports*—(a) *Report on marketing card.* The operator of each farm on which tobacco is produced in 1953 or for which a marketing card is issued, shall return to the county PMA office of the county in which the farm is located each marketing card issued for the farm whenever marketings from the farm are completed and in no event later than October 1, 1954. Failure to return the marketing card within fifteen (15) days after written notice by the county office manager shall constitute failure to account for disposition of tobacco marketed from the farm and in the event that a satisfactory account of such disposition is not furnished otherwise the allotment next established for such farm shall be reduced as provided in Maryland tobacco marketing quota regulations for determining acreage allotments and normal yields, 1954–55 marketing year.

(b) *Additional reports by producers.* In addition to any other reports which may be required under §§ 727.430 to 727.460, the operator of each farm or any other person having an interest in the tobacco grown on the farm (even though the harvested acreage does not exceed the acreage allotment or even though no allotment was established for the farm) shall upon written request by registered mail from the State administrative officer and within fifteen (15) days after the deposit of such request in the United States mails, addressed to such person at his last known address, furnish the Secretary a written report of the disposition made of all tobacco produced on the farm by sending the same to the State PMA office showing, as to the farm at the time of filing said report, (1) the number of acres of tobacco harvested, (2) the total production of tobacco, (3) the amount of tobacco on hand and its location, and (4) as to each lot of tobacco marketed, the name and address of the warehouseman, dealer, or other person to or through whom such tobacco was marketed and the number of pounds marketed, the gross price, and the date of the marketing. Failure to file the report as requested or the filing of a report which is found by the State committee to be incomplete or incorrect shall constitute failure of the producer to account for disposition of tobacco produced on the farm and the allotment next established for such farm shall be reduced as provided in the Maryland tobacco marketing quota regulations for determining acreage allotments and normal yields, 1954–55 marketing year.

§ 727.451 *Warehouseman's records and reports*—(a) *Record of marketing.* (1) Each warehouseman shall keep such records as will enable him to furnish the State PMA office with respect to each warehouse sale of tobacco made at his warehouse the following information:

(i) The name of the operator of the farm on which the tobacco was produced and the name of the seller in the case of a sale by a producer, and in the case of a resale the name of the seller.

(ii) Date of sale.

(iii) Number of pounds sold.

(iv) Gross sale price.

(v) Amount of any penalty and the amount of any deduction on account of

penalty from the price paid the producer(s);

and in addition with respect to each individual basket or lot of tobacco constituting the warehouse sale the following information:

(vi) Name of purchaser.

(vii) Number of pounds sold.

(viii) Gross sale price.

(2) Records of all purchases and resales of tobacco by the warehouseman shall be maintained to show a separate account for:

(i) Nonwarehouse sales by farmers of tobacco purchased by or on behalf of the warehouseman.

(ii) Purchases and resales for the warehouse leaf account.

(iii) Resales of floor sweepings.

(iv) Resales of pick-ups (subparagraphs (1) and (2) of § 727.431 (o))

(3) Any warehouseman or any other person who grades tobacco for farmers shall maintain records which will enable him to furnish the State PMA office the name of the farm operator and the approximate amount of scrap tobacco obtained from the grading of tobacco from each farm.

(4) In the case of resales for dealers the name of the dealer making each resale shall be shown on the warehouse records so that the individual lots of tobacco sold by the dealer can be identified.

(b) *Identification of sale on check register (or ledger account in case of a sale through a hogshead tobacco warehouse)* The serial number of the memorandum of sale issued to identify each warehouse sale by a producer or the serial number of the warehouse bill(s) covering each such sale shall be recorded on the check register or check stub for the check written with respect to such sale of tobacco (or on the ledger account in the case of a sale through a hogshead tobacco warehouse)

(c) *Memorandum of sale and bill of nonwarehouse sale.* A record in the form of a valid memorandum of sale or a sale without marketing card shall be obtained by a warehouseman to cover each marketing of tobacco from a farm through the warehouse and each nonwarehouse sale of tobacco purchased by or for the warehouseman. For a nonwarehouse sale of tobacco purchased by or for a warehouseman, no memorandum of sale shall be issued unless the bill of nonwarehouse sale on the reverse side of the memorandum of sale is executed. Any warehouseman who obtains possession of any scrap tobacco in the course of grading tobacco from any farm shall obtain a bill of nonwarehouse sale and a memorandum of sale to cover the amount of such scrap.

(d) *Suspended sale record.* Any warehouse bills covering farm tobacco for which memoranda of sale have not been issued at the end of the sale day shall be presented to a field assistant who shall stamp such bills "suspended," write thereon the serial number of the suspended sale, and, if the warehouse is not a hogshead warehouse, record the bills on MQ-83—Tobacco, Field Assistant's Report: *Provided,* That if a field assistant is not available, the warehouseman may stamp such bills "Suspended" and deliver them to a field assistant when one is available.

(e) *Warehouse entries on dealer's record.* Each warehouseman, other than a hogshead tobacco warehouseman, shall record on MQ-79—Tobacco the total purchases and resales made by each dealer or other warehouseman during each sale day at the warehouse and enter his initials in the space provided. If any tobacco resold by the dealer is tobacco bought by him from a crop produced prior to 1953 the entry on MQ-79—Tobacco shall clearly show such fact.

(f) *Record and report of purchases and resales.* Each warehouseman shall keep a record and make reports on MQ-79—Tobacco, Dealer's Record, showing:

(1) All purchases, by or for the warehouse, of tobacco directly from producers other than at public auction through a warehouse (nonwarehouse sales) (also including, in the case of a hogshead tobacco warehouseman, purchases at the hogshead tobacco warehouse by or for such warehouseman at auction from producers)

(2) All purchases and resales, by or for the warehouse, of tobacco at public auction through warehouses other than his own.

(3) All purchases, by or for the warehouse, of tobacco from dealers other than warehousemen and resales, by or for the warehouse, of tobacco to dealers other than warehousemen.

(g) *Season report of warehouse business.* (1) Each warehouseman, other than a hogshead tobacco warehouseman, shall furnish the State PMA office not later than thirty (30) days following the last sale day of the marketing season a report on MQ-80—Tobacco, Auction Warehouse Report, showing (i) for each dealer or buyer, as originally billed, the total pounds and gross amount of tobacco purchased and result on the warehouse floor; (ii) the total pounds and gross amount of "loan tobacco" billed to any association; (iii) the total pounds and gross amount of all leaf account tobacco purchased and resold and of all pick-ups (§ 727.431 (o) (1) or (2)), or floor sweepings sold by the warehouseman at public auction over his own warehouse floor; (iv) the pounds and estimated value of all tobacco on hand at the time of filing the report and whether such tobacco represents leaf account tobacco, pick-ups (§ 727.431 (o) (1) or (2)) or floor sweepings; (v) the total pounds and gross amount of all tobacco purchased directly from farmers other than at public auction through a warehouse; and (vi) the total pounds and gross amount of all purchases over other warehouse floors or from dealers other than warehousemen, and all resales over other warehouse floors or to dealers other than warehousemen. A hogshead tobacco warehouseman, also, shall report all leaf account tobacco purchased or sold and all floor sweepings and pick-ups sold, if any, through the warehouse.

(2) A hogshead tobacco warehouseman shall submit weekly reports (each such report to be submitted not later than the end of the calendar week following the week during which the transactions occurred) to the State PMA office including for each buyer who purchased tobacco (and any association to which any "loan" tobacco was consigned) through the warehouse during the week for which the report is submitted, a copy of the bill-out to the buyer (or association) together with the following:

(i) Name of farm operator (and name of seller if different from farm operator) for each sale of farm tobacco.

(ii) Farm serial number of the farm for each sale of farm tobacco.

(iii) Serial number of memorandum of sale or memorandum of sale without marketing card executed with respect to each sale of farm tobacco.

(iv) Date of sale (or date of consignment to loan association)

(v) Hogshead serial number.

(vi) Number of pounds of tobacco in the hogshead.

(vii) Designation as to whether the tobacco in the hogshead was produced in 1953 or in a year prior to 1953.

(viii) A memorandum of sale or a memorandum of sale without marketing card for each sale of farm tobacco produced in 1953, and a memorandum of sale or a memorandum of sale without marketing card for each sale of farm tobacco produced prior to 1953.

(ix) A remittance of the penalty due as shown on all memoranda of sale and memoranda of sale without marketing card.

(x) Designation by the word "resale" and the name of the person reselling the tobacco entered on the bill-out for tobacco resold through the hogshead warehouse.

(h) *Report of penalties.* Each warehouseman, other than a hogshead tobacco warehouseman, shall make reports on MQ-81—Tobacco, Report of Penalties, showing for each sale of tobacco subject to penalty (1) the name of the farm operator; (2) the memorandum number; (3) the name of the county in which the farm is located; (4) the farm serial number; (5) the number of pounds sold; (6) the applicable converted rate of penalty; and (7) the amount of penalty due on each such sale. MQ-81—Tobacco shall be prepared for each week and forwarded together with remittance of the penalty due as shown thereon to the State PMA office not later than the end of the calendar week following the week in which the tobacco became subject to penalty.

(i) *Report of resales.* Each warehouseman, other than a hogshead tobacco warehouseman, shall make reports on MQ-86—Tobacco, Report of Resales, showing for each resale of tobacco at auction on the warehouse floor (1) the warehouse bill number; (2) the name on the warehouse bill; (3) the name of the seller, or in the case of a resale for the warehouse, whether such resale represents leaf account tobacco, pick-ups, or floor sweepings; (4) the registration number and State of the person making the resale; (5) the number of pounds sold; and (6) the gross amount for the sale. MQ-86—Tobacco shall be prepared for each sale day and forwarded to the State PMA office not later than the

end of the calendar week following the week in which the tobacco was resold.

(j) *Additional records and reports by warehousemen.* Each warehouseman shall keep such records and furnish such reports to the State PMA office in addition to the foregoing, as the State committee may find necessary to insure the proper identification of the marketings of tobacco and the collection of penalties due thereon as provided in §§ 727.430 to 727.460.

§ 727.452 *Dealer's records and reports.* Each dealer, except as provided in § 727.453, shall keep the records and make the reports as provided by this section.

(a) *Report of dealer's name, address and registration number.* Each dealer shall properly execute and the field assistant (or the dealer, if the tobacco is to be marketed through a hogshead tobacco warehouse) shall detach and forward to the State PMA office "Receipt for Dealer's Record" contained in MQ–79—Tobacco which is issued to the dealer.

(b) *Record and report of purchases and resales.* Each dealer shall keep a record and make reports on MQ–79—Tobacco, Dealer's Record, showing all purchases and resales of tobacco made by or for the dealer and, in the event of resale of tobacco bought from a crop produced prior to 1953, the fact that such tobacco was bought by him from a crop produced prior to 1953.

(c) *Report of penalties.* Each dealer, unless the tobacco is to be marketed through a hogshead tobacco warehouse, shall make a report on MQ–81—Tobacco, Report of Penalties, showing for each purchase, other than by warehouse sale, of tobacco subject to penalty (1) the name of the farm operator; (2) the memorandum number; (3) the name of the county in which the farm is located; (4) the farm serial number; (5) the number of pounds purchased; (6) the applicable converted rate of penalty; and (7) the amount of penalty due on each such purchase. MQ–81—Tobacco shall be prepared for each week and forwarded together with remittance of the penalty due as shown thereon to the State PMA office not later than the end of the calendar week following the week in which the tobacco became subject to penalty. A dealer who purchases tobacco which is to be marketed through a hogshead tobacco warehouse shall remit the penalty with his reports on MQ–79—Tobacco, Dealer's Record, together with memoranda of sale and memoranda of sale without marketing card to the State PMA office not later than the end of the calendar week following the week during which he purchased the tobacco.

(d) *Memorandum of sale and bill of nonwarehouse sale.* (1) A bill of nonwarehouse sale and a memorandum of sale from the 1953 marketing card issued for the farm on which the tobacco was purchased shall be obtained by a dealer to cover each purchase of tobacco directly from a producer other than at auction through a warehouse. No memorandum of sale shall be issued identifying such purchase unless the bill of nonwarehouse sale on the reverse side of the memorandum of sale has been executed.

(2) Any dealer who acquires scrap tobacco from any farm shall obtain a bill of nonwarehouse sale and a memorandum of sale to cover the amount of such scrap tobacco.

(e) *Additional records.* Each dealer shall keep such records in addition to the foregoing as will enable him to furnish the State PMA office with respect to each lot of tobacco purchased by him the following information:

(1) The name of the warehouse through which the tobacco was purchased in the case of a warehouse sale; the name of the operator of the farm on which the tobacco was produced and the name of the seller in the case of a nonwarehouse sale; and the name of the seller in the case of purchases directly from warehousemen or other dealers.

(2) Date of purchase.

(3) Number of pounds purchased.

(4) Gross purchase price.

(5) Amount of any penalty and the amount of any deduction on account of penalty from the price paid the producer(s) and with respect to each lot of tobacco sold by him the following information:

(6) Name of the warehouse through which the tobacco was sold in the case of a warehouse sale, and the name of the purchaser if other than a warehouse sale.

(7) Date of sale.

(8) Number of pounds sold.

(9) Gross sale price.

(10) In the event of a resale of tobacco bought by him and carried over from a crop produced prior to 1953 the fact that such tobacco was bought by him from a crop produced prior to 1953.

(f) *Forwarding of reports.* All reports shall be forwarded to the State PMA office not later than the end of the week following the calendar week covered by the reports.

§ 727.453 *Dealers exempt from regular records and reports.* Any dealer or buyer who does not purchase or otherwise acquire tobacco except at warehouse sales, or directly from dealers other than warehousemen, and who does not resell in the form in which tobacco ordinarily is sold by farmers more than 10 percent of such tobacco so purchased by him shall not be subject to the provisions of § 727.452: *Provided, however,* That any such dealer or buyer who purchases tobacco at nonwarehouse sale, or from a warehouseman other than at warehouse sale, shall be subject to the provisions of § 727.452 with respect to such purchases. Each such dealer or buyer shall make such reports to the Director, in addition to the foregoing, as he may find necessary to enforce §§ 727.430 to 727.460, and each dealer or buyer who is not subject to the provisions of § 727.452 shall make such reports to the Director as he may find necessary to enforce §§ 727.430 to 727.460.

§ 727.454 *Records and reports of truckers and persons redrying, prizing or stemming tobacco.* (a) Each person engaged to any extent in the business of trucking or hauling tobacco for producers to a point where it may be marketed or otherwise disposed of in the form and in the condition in which it is usually marketed by producers shall keep such records as will enable him to furnish the State PMA office a report with respect to each lot of tobacco received by him showing (1) the name and address of the producer, (2) the date of receipt of the tobacco, (3) the number of pounds received and (4) the name and address of the person to whom it was delivered.

(b) Each person engaged to any extent in the business of redrying, prizing or stemming tobacco for producers shall keep such records as will enable him to furnish the Director a report showing (1) the information required above for truckers, and in addition, (2) the purpose for which the tobacco was received, (3) the amount of advance made by him on the tobacco, and (4) the disposition of the tobacco.

(c) Each such person shall make such reports to the Director as he may find necessary to enforce §§ 727.430 to 727.460.

§ 727.455 *Separate records and reports from persons engaged in more than one business.* Any person who is required to keep any record or make any report as a warehouseman, dealer, trucker, or as a person engaged in the business of redrying, prizing or stemming tobacco for producers, and who is engaged in more than one such business, shall keep such records as will enable him to make separate reports for each such business in which he is engaged to the same extent for each such business as if he were engaged in no other business.

§ 727.456 *Failure to keep records or make reports.* Any warehouseman, dealer, trucker, or person engaged in the business of redrying, prizing, or stemming tobacco for producers, who fails to make any report or keep any record as required under §§ 727.430 to 727.460, or who makes any false report or record, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not more than $500; and any tobacco warehouseman or dealer who fails to remedy such violation by making a complete and accurate report or keeping a complete and accurate record as required under §§ 727.430 to 727.460 within fifteen days after notice to him of such violation shall be subject to an additional fine of $100 for each ten thousand pounds of tobacco, or fraction thereof, bought or sold by him after the date of such violation: *Provided,* That such fine shall not exceed $5,000; and notice of such violation shall be served upon the tobacco warehouseman or dealer by mailing the same to him by registered mail or by posting the same at an established place of business operated by him, or both. Notice of any violation by a warehouseman, dealer, trucker, or person engaged in the business of redrying, prizing, or stemming tobacco for producers shall be given by the Director.

§ 727.457 *Examination of records and reports.* For the purpose of ascertaining the correctness of any report made or record kept, or of obtaining information required to be furnished in any report but not so furnished, any warehouse-

man, dealer, trucker, or person engaged in the business of redrying, prizing, or stemming tobacco for producers shall make available for examination upon written request by the State administrative officer or Director, such books, papers, records, accounts, cancelled checks, correspondence, contracts, documents, and memoranda as the State administrative officer or Director has reason to believe are relevant and are within the control of such person.

§ 727.458 *Length of time records and reports are to be kept.* Records required to be kept and copies of the reports required to be made by any person under §§ 727.430 to 727.460 for the 1953–54 marketing year shall be kept by him until September 30, 1956. Records shall be kept for such longer period of time as may be requested in writing by the Director.

§ 727.459 *Information confidential.* All data reported to or acquired by the Secretary pursuant to the provisions of §§ 727.430 to 727.460 shall be kept confidential by all officers and employees of the United States Department of Agriculture and by all members of county and community committees and all county PMA office employees, and only such data so reported or acquired as the Assistant Administrator for Production, Production and Marketing Administration, deems relevant shall be disclosed by them and then only in a suit or administrative hearing under Title III of the act.

§ 727.460 *Redelegation of authority.* Any authority delegated to the State committee by §§ 727.430 to 727.460 may be redelegated by the State committee.

NOTE: The record keeping and reporting requirements of these regulations have been approved by and subsequent reporting requirements will be subject to the approval of the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

Done at Washington, D. C., this 20th day of July 1953. Witness my hand and seal of the Department of Agriculture.

[SEAL] J. EARL COKE,
Acting Secretary of Agriculture.

[F. R. Doc. 53-6505; Filed, July 22, 1953; 8:53 a. m.]

Chapter IX—Production and Marketing Administration (Marketing Agreements and Orders), Department of Agriculture

[Amdt. 1]

PART 957—IRISH POTATOES GROWN IN CERTAIN DESIGNATED COUNTIES IN IDAHO AND IN MALHEUR COUNTY, OREGON

LIMITATION OF SHIPMENTS

Findings. (1) Pursuant to Marketing Agreement No. 98 and Order No. 57, as amended (7 CFR Part 957) regulating the handling of Irish potatoes grown in certain designated counties in Idaho and Malheur County, Oregon, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.), and upon the basis of the recommendation and information submitted by the Idaho-Eastern Oregon Potato Committee, established pursuant to said marketing agreement and order, as amended, and upon other available information, it is hereby found that the amendment to the limitation of shipments, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this section until 30 days after publication in the FEDERAL REGISTER (5 U. S. C. 1001 et seq.) in that (i) the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, (ii) more orderly marketing in the public interest, then would otherwise prevail, will be promoted by regulating the shipment of potatoes, in the manner set forth below, on and after the effective date of this section, (iii) compliance with this section will not require any preparation on the part of handlers which cannot be completed by the effective date, and (iv) information regarding the committee's recommendations has been made available to producers and handlers in the production area.

Order as amended. The provisions of § 957.310 (b) (3) (18 F R. 3380) are hereby amended to read as follows:

(3) During the period beginning 12:01 a. m., m. s. t., July 24, 1953, and ending 12:01 a. m., m. s. t., November 1, 1953, no handler shall ship (i) potatoes of the red skin varieties which are more than "moderately skinned" as such term is defined in the U. S. Standards for Potatoes, which means that not more than 10 percent of the potatoes in any lot have more than one-half of the skin missing or feathered, (ii) potatoes of the White Rose or Kennebec varieties if more than 35 percent of the potatoes in any lot have more than one-half of the skin missing or feathered, as such terms are used in the U. S. Standards for Potatoes, and (iii) potatoes of any other varieties which are more than "moderately skinned" as such term is defined in the U. S. Standards for Potatoes, which means that not more than 10 percent of the potatoes in any lot have more than one-half of the skin missing or feathered: *Provided,* That the grade and size requirements set forth in subparagraph (1) of paragraph (b) of this section will be equally applicable to potatoes shipped under the maturity requirements set forth in this subparagraph: *Provided further* That during such period not to exceed 200 hundredweight of each variety of such potatoes may be handled for any producer without regard to the aforesaid skinning requirements if the handler thereof reports, prior to such handling, the name and address of the producer of such potatoes, and each shipment hereunder is handled as an identifiable entity.

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. and Sup. 608c)

Done at Washington, D. C., this 17th day of July 1953, to become effective 12:01 a. m., m. s. t., July 24, 1953.

[SEAL] S. R. SMITH,
Director Fruit and Vegetable Branch, Production and Marketing Administration.

[F. R. Doc. 53-6483; Filed, July 22, 1953; 8:48 a. m.]

PART 958—IRISH POTATOES GROWN IN COLORADO

LIMITATION OF SHIPMENTS

§ 958.313 *Limitation of shipments*—(a) *Findings.* (1) Pursuant to Marketing Agreement No. 97 and Order No. 58 (7 CFR Part 958), regulating the handling of Irish potatoes grown in the State of Colorado, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended, 7 U. S. C. 601 et seq.), and upon the basis of the recommendation and information submitted by the administrative committee for Area No. 2, established pursuant to said marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this section until 30 days after publication in the FEDERAL REGISTER (5 U. S. C. 1001 et seq.) in that (i) the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, (ii) more orderly marketing in the public interest, than would otherwise prevail, will be promoted by regulating the shipment of potatoes, in the manner set forth below, on and after the effective date of this section, (iii) compliance with this section will not require any preparation on the part of handlers which cannot be completed by the effective date, (iv) a reasonable time is permitted under the circumstances for such preparation, and (v) information regarding the committee's recommendation has been made available to producers and handlers in the production area.

(b) *Order* (1) During the period August 3, 1953 to May 31, 1954, both dates inclusive, no handler shall ship potatoes of any variety grown in Area No. 2, as such area is defined in Marketing Agreement No. 97 and Order No. 58, which do not meet the requirements of U. S. No. 2 or better grade, as provided in Colorado Regulation No. 1 (§ 958.301, 14 F R. 3979), issued pursuant to § 958.2 (a) (General Cull Regulation), and which are less than 2 inches minimum diameter for all round varieties, including, but not limited to Red

McClures, Irish Cobblers, Katahdins, Kennebecs, Pontiacs, and Bliss Triumphs, and which are less than 2 inches minimum diameter or 4 ounces in weight for all long varieties, including, but not limited to Russet Burbank, and White Rose types.

(2) During the period August 3, 1953 to October 10, 1953, both dates inclusive, no handler shall ship potatoes grown in Area No. 2, as such area is defined in Marketing Agreement No. 97 and Order No. 58, which do not comply with the aforesaid grade and size requirements and which are more than "slightly skinned" as such terms are defined in the U. S. Standards for Potatoes (§ 51.366 of this title) which means that not more than 10 percent of the potatoes in any lot have more than one-fourth of the skin missing or "feathered."

(3) All terms used in this section shall have the same meaning as when used in Order No. 58 (7 CFR Part 958) and the U. S. grades and sizes, including the tolerances therefor, shall have the same meanings assigned such terms in the U. S. Standards for Potatoes (§ 51.366 of this title)

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. and Sup. 608c)

Done at Washington, D. C., this 17th day of July 1953.

[SEAL] S. R. SMITH,
Director Fruit and Vegetable Branch, Production and Marketing Administration.

[F. R. Doc. 53-6482; Filed, July 22, 1953; 8:48 a. m.]

TITLE 14—CIVIL AVIATION

Chapter I—Civil Aeronautics Board

Subchapter A—Civil Air Regulations

[Supplement 1]

PART 53—MECHANIC SCHOOL CERTIFICATES

RULES, POLICIES, AND INTERPRETATIONS OF CAA

The rules, policies, and interpretations of the Administrator contained in this supplement implement the provisions of Part 53, Mechanic School Certificates, adopted by the Board and published April 5, 1952, in 17 F. R. 2985. They have been coordinated with interested members of the industry insofar as practicable.

The rules contained in this supplement merely restate the existing procedural requirements for making application for mechanic school certificates and the filing of reports by such schools. Inasmuch as these rules are minor in nature, and since no additional burdens are being imposed upon interested persons, compliance with the notice, procedures, and effective date provisions of section 4 of the Administrative Procedure Act would be unnecessary, and therefore is not required.

Sections of Part 53 which are implemented by these rules, policies, and interpretations are repeated in this supplement for the guidance of the public. The following rules, policies, and interpretations, which supersede all those previously promulgated by the Administrator under Part 53, are hereby adopted:

APPLICABILITY AND DEFINITIONS

§ 53.0 *Applicability of this part.* This part establishes the requirements for the issuance of mechanic school certificates and ratings and basic operating rules for the holders thereof.

§ 53.1. *Definitions.* (a) As used in this part terms are defined as follows:

(1) *Aircraft.* An aircraft shall mean any contrivance now known or hereafter invented, used, or designed for navigation of or flight in the air, including airframe, powerplant, propeller, and appliances.

(2) *Aircraft engine.* An aircraft engine shall mean an engine used, or intended to be used, for propulsion of aircraft, and includes all parts, appurtenances, and accessories thereof other than propellers.

(3) *Airframe.* Airframe shall mean any and all kinds of fuselages, booms, nacelles, cowlings, fairings, empennages, airfoil surfaces, and landing gear, and all parts, accessories, or controls, of whatever description, appertaining thereto, but not including powerplants and propellers.

(4) *Alteration.* An alteration shall mean any appreciable change in the design of an airframe, powerplant, propeller, or appliance.

(5) *Appliances.* Appliances shall mean instruments, equipment, apparatus, parts, appurtenances, or accessories, of whatever description, which are used, or are capable of being or intended to be used, in the navigation, operation, or control of aircraft in flight (including communication equipment, electronic devices, and any other mechanism or mechanisms installed in or attached to aircraft during flight, but excluding parachutes), and which are not a part or parts of airframes, powerplants, or propellers.

(6) *Authorized representative of the Administrator.* An authorized representative of the Administrator shall mean any employee of the Civil Aeronautics Administration or any private person, authorized by the Administrator to perform particular duties of the Administrator under the provisions of this part.

(7) *Certificated mechanic.* A certificated mechanic shall mean an individual holding a valid mechanic certificate with appropriate ratings issued by the Administrator.

(8) *Component.* A component shall mean a constituent part of an aircraft.

(9) *Instrument.* An instrument shall mean a device utilizing internal mechanism to indicate visually or aurally the attitude, altitude, performance, or operation of an aircraft or any component thereof, and shall include electronic instrumentation and devices for the automatic control of navigation of the aircraft in flight.

(10) *Maintenance.* Maintenance, which includes preventive maintenance, shall mean the inspection, overhaul, repair, upkeep, and preservation of airframes, powerplants, propellers, and appliances, including the replacement of parts.

(11) *Person.* Person shall mean any individual, firm, copartnership, corporation, company, association, joint-stock association, or body politic; and includes any trustee, receiver, assignee, or other similar representative thereof.

(12) *Powerplant.* Powerplant shall mean an aircraft engine and its component parts, and other parts necessary to properly install such engine in an aircraft, but not the propeller (if used).

(13) *Propeller.* Propeller shall mean a device for propelling an aircraft through the air, having blades mounted on a power-driven shaft, which when rotated produces by its action on the air a thrust approximately parallel to the longitudinal axis of the aircraft, and shall also include control components normally supplied by the manufacturer of the propeller. It shall also include a system of rotating airfoils which serve either to counteract the effect of the main rotor torque of a rotorcraft or to maneuver a rotorcraft about one or more of its three principal axes.

(14) *Radio.* Radio shall mean an appliance and related apparatus for the transmission and/or reception of radio signals, including electronic appliances used for intercommunication.

(15) *Repair.* Repair shall mean the restoration of an airframe, powerplant, propeller, or appliance to a condition for safe operation after damage or deterioration.

CERTIFICATION RULES

§ 53.5 *Application for certificate.* Application for a mechanic school certificate and ratings, or any modification or amendment thereof, shall be made on a form and in a manner prescribed by the Administrator.

§ 53.5-1 *Procedure for applying for a mechanic school certificate (CAA rules which apply to § 53.5—(a) General.* When the applicant is satisfied that he is thoroughly familiar with the contents of this part, he shall make application for a mechanic school certificate on the application portion of Form ACA-614. This form may be obtained from the Office of the Regional Administrator of Civil Aeronautics located in the area most convenient to the applicant, or from the local CAA Aviation Safety District Office. The addresses of all regional offices of the Civil Aeronautics Administration and the States under their jurisdiction will be found in the Appendix.

(b) *Application file.* A complete application file shall consist of the original and one copy of the following:

(1) Executed Form ACA-614, Mechanic School Application and Inspection Report;

(2) The curriculum to be used;[1]

(3) A list of facilities and materials to be used (photographs of the facilities are desirable)

(4) A list of instructors including the type of certificate, the number, the ratings and subjects to be taught.

§ 53.6 *Issuance.* A mechanic school certificate with appropriate ratings prescribing such operations, specifications and limitations as may be reasonably required in the interest of safety shall be issued to an applicant who the Administrator finds is properly and adequately equipped, has sufficient qualified personnel, and is able to conduct a mechanic school in accordance with the requirements hereinafter specified. No person may operate as a certificated mechanic school without, or in violation of, the terms of a mechanic school certificate.

§ 53.7 *Duration.* A mechanic school certificate with appropriate ratings shall remain in effect until surrendered, suspended, revoked, or otherwise terminated by order of the Board, after which it shall be returned to the Administrator.

§ 53.7-1 *Duration (CAA policies which apply to § 53.7).* A mechanic school Air

[1] When application is made by the holder of a currently effective mechanic school certificate, an entirely new curriculum need not be submitted if the previously approved and currently effective curriculum can be altered to conform to the new Part 53, in which case only the revised pages need be submitted with a notation to that effect under Remarks, Item 25 of Form ACA-614.

Agency Certificate which has been surrendered or otherwise terminated by order of the Board should be returned to the Administrator through the CAA Regional Office or the local Aviation Safety District Office.

§ 53.8 *Exchange of certificates.* The Administrator shall, not later than one year from the effective date of this part, reinspect all mechanic schools certificated prior to the effective date of this part. Upon the conclusion of each reinspection the existing certificate and ratings of such mechanic school shall expire, and the certificate shall be returned to the Administrator. A new certificate with appropriate ratings may be issued in accordance with the provisions of this part, if such reinspection indicates compliance herewith. Until such reinspection has been completed and a new certificate has been issued, a mechanic school shall comply with the requirements of this part in effect immediately prior to this revision.

§ 53.8–1 *Exchange of certificates (CAA policies which apply to § 53.8).*— (a) *Procedure for exchange of certificates.* (1) It is the responsibility of the Civil Aeronautics Administration to inspect all mechanic schools holding certificates issued prior to June 15, 1952. The inspecting Aviation Safety Agent will notify the mechanic school, in writing, of his intent to conduct an inspection for recertification. The mechanic school will be allowed a minimum of 30 days from the date of the Agent's letter in which to study the revised regulation and prepare for this inspection. However, the school may request inspection at any time after notification of the Agent's intent to conduct an inspection. Prior to the inspection the mechanic school should execute an application for a mechanic school certificate, hereinafter referred to as Form ACA–614.

(2) The mechanic school should surrender the expired certificate to the inspecting agent at the conclusion of the inspection. If the inspection indicates full compliance with the provisions of Part 53, a new mechanic school Air Agency Certificate, Form ACA–390, with appropriate ratings will be issued by the CAA Regional Office in charge of conducting the inspection for recertification.

§ 53.9 *Display.* The mechanic school certificate with appropriate ratings shall be on display in the mechanic school for which the certificate was issued and available for inspection by any authorized representative of the Administrator or the Board.

§ 53.9–1 *Display (CAA interpretations which apply to § 53.9)* The mechanic school certificate (Air Agency Certificate, Form ACA–390) must be displayed in a location normally accessible to the general public and must not be obscured.

§ 53.10 *Change of location.* No change in the location of a certificated mechanic school shall be made without the prior written approval of the Administrator. Any change in location of a mechanic school invalidates the mechanic school certificate, unless the change has been approved by the Administrator.

§ 53.10–1 *Change of location (CAA policies which apply to § 53.10)* A mechanic school changing its location should notify the Administrator, in writing, of the contemplated change through the local Aviation Safety Agent or District Office supervising the activities of the school. Such notification should be made at least 30 days prior to the contemplated change since it will be necessary to conduct an inspection of the school's facilities in the new location.

§ 53.11 *Inspection.* An authorized representative of the Administrator or the Board shall be permitted at any time to make inspections or examinations to determine a mechanic school's compliance with the provisions of this sub-chapter.

§ 53.11–1 *Formal inspections (CAA policies which apply to § 53.11)* The applicant's compliance with the requirements of this part will be determined by the Aviation Safety Agent after completing an inspection of the applicant's facilities and equipment. After the original inspection for certification or recertification, formal inspections will be made by an Aviation Safety Agent every 6 months. This inspection will be made to determine if the mechanic school continues to meet the requirements under which it was originally certificated. Upon completion of the formal inspection, the Aviation Safety Agent conducting the inspection will notify the mechanic school, in writing, of any discrepancies noted during the inspection.

§ 53.11–2 *Informal inspection. (CAA policies which apply to § 53.11)* An Aviation Safety Agent or a representative of the Board may make spot checks from time to time between formal inspections.

§ 53.12 *Nontransferability of certificate.* A mechanic school certificate is not transferable.

§ 53.13 *Advertising.* No certificated mechanic school shall in any manner make any statement pertaining to such school which is false or is designed to mislead any person contemplating enrollment in such school. Any advertising which indicates that such school is approved by the Administrator shall clearly differentiate between those courses which have been approved by the Administrator and those which have not.

§ 53.14 *Ratings.* The following mechanic school ratings may be issued:
(a) Airframe;
(b) Powerplant;
(c) Airframe and powerplant.

CERTIFICATE REQUIREMENTS

§ 53.20 *Certificate requirements; general.* No applicant for a mechanic school certificate or a rating shall be issued such certificate or rating until the appropriate requirements of §§ 53.21 through 53.42 are met.

§ 53.20–1 *Certificate requirements; general (CAA policies which apply to § 53.20)* The CAA will not issue a mechanic school Air Agency Certificate to an applicant unless the inspecting agent finds that the applicable requirements of this part have been complied with in all respects.

§ 53.21 *Number of students.* Each applicant shall state in his application the maximum number of students expected to be instructed at any particular time.

§ 53.21–1 *Number of students (CAA interpretations which apply to § 53.21).* The contemplated maximum student enrollment must not be exceeded unless an amended application is submitted to, and approved by, the Administrator.

§ 53.22 *Facilities, equipment, and materials; general.* Each applicant shall have at least the facilities, equipment, and materials specified in §§ 53.24 through 53.26 appropriate to the rating sought, and such additional facilities, equipment, and materials as are determined by the Administrator to be necessary for a particular curriculum to train individuals to perform properly the work appropriate to the mechanic rating sought.[1]

§ 53.23 *Modification of facilities, equipment, and materials.* No substantial modification or change in the facilities, equipment, and materials approved by the Administrator for a particular curriculum shall be made without the prior written approval of the Administrator.[2]

§ 53.24 *Required space facilities.* Each applicant shall have such of the following facilities as are appropriate to the rating sought which the Administrator shall determine to be adequate or necessary to accommodate the maximum number of students expected to be instructed at any particular time. Such facilities shall be properly heated, lighted, and ventilated.
(a) A drafting room with drafting tables and equipment.
(b) A stock room set up to insure the proper segregation of materials.
(c) Suitable separate space having proper ventilation and temperature control for doping.
(d) Suitable separate space equipped with adequate cleaning equipment.
(e) Suitable separate space provided with test stands and test clubs for running-in engines.
(f) Suitable separate space provided with adequate equipment to disassemble, repair, assemble, test, service, and inspect the following:
(1) Ignition, electrical equipment, and appliances.
(2) Carburetors and fuel systems.
(3) Hydraulic and vacuum systems as applying to the actuation of aircraft, engines, and their appliances.
(g) Suitable space with adequate equipment for the disassembly, inspection, assembly, and rigging of an aircraft.
(h) Suitable space with adequate equipment for the disassembly, inspection, overhaul, assembly, and timing of engines.

§ 53.24–1 *Required space facilities (CAA policies which apply to §§ 53.24 and 53.22)* The facilities of the applicant should include a properly heated, lighted and ventilated classroom. However, when not in use, the drafting room may be used as the classroom. In addition, the applicant should have the following facilities, equipment and materials appropriate to the rating sought.

(a) Drafting room complete with drafting tables, T squares, and other necessary drawing equipment.

(b) Stock room set up to insure the proper separation from the working space for the segregation and protection of parts, tools, materials, etc.

(c) Suitable separate space, temporary or permanent structure, having proper lighting, ventilation and temper-

[1] The Administrator publishes Civil Aeronautics Manual 53 in which is set forth an outline of the equipment, facilities, and materials which are necessary for compliance with this part.

[2] Requests for modifications or changes should be submitted to the Regional Administrator of Civil Aeronautics for the region in which the mechanic school is located.

ature control for doping and paint spraying.

(d) Suitable separate space equipped with wash tank and degreasing equipment with air pressure, or other adequate cleaning equipment.

(e) Suitable separated space provided with test stands and test clubs for running-in engines. Mobile or portable test stands are considered satisfactory.

(f) Suitable separate space provided with adequate equipment including benches, tables, and instruments to disassemble, repair, assemble, test, service, and inspect the following:

(1) Ignition, electrical equipment and appliances;

(2) Carburetors and fuel systems, and

(3) Hydraulic and vacuum systems as applying to aircraft, engines, and their appliances.

(g) Suitable space with adequate equipment including tables, benches, horses, stands, jacks, etc., for the disassembly, inspection, assembly and rigging of an aircraft.

(h) Suitable space with adequate equipment for the disassembly, inspection, overhaul, assembly, trouble-shooting, and timing of engines.

§ 53.25 *Required instructional equipment.* Each applicant shall have such of the following instructional equipment as is appropriate to the rating sought which need not be in an airworthy condition and which may have been damaged, but it shall have been repaired sufficiently for complete assembly. All airframes, powerplants, propellers, appliances, and components thereof on which instruction is to be given and on which practical experience is to be obtained shall be sufficiently diversified to indicate the different manners of construction, assembly, inspection, and operation when installed in an aircraft for use, and shall be provided in sufficient number to assure that not more than eight students shall work on any single unit thereof at any one time.

(a) Various types of fuselages, wings (wing sections if of aircraft of more than 12,500 lbs. maximum certificated take-off weight), control surfaces, landing gear, radios, instruments, propellers (including propellers of fixed type, wood and metal, and adjustable and controllable metal), and aircraft reciprocating engines (including at least one opposed type, one in-line type, one radial type of not less than 350 horsepower, and one supercharged type).

(b) At least one modern-type aircraft complete with powerplant, propeller, instruments, radio (two-way), landing lights, flares, and other items of equipment and accessories on which a mechanic might be required to work and with which he should be familiar.

§ 53.25–1 *Required instructional equipment (CAA interpretations which apply to § 53.25 (b))* A modern-type aircraft means an airplane of a type currently certificated by CAA for private or commercial operation.

§ 53.25–2 *Required instructional equipment (CAA policies which apply to § 53.25).* The aircraft used for instructional purposes should be equipped with retractable landing gear and wing flaps. However, if the aircraft used does not have such equipment, training aids or operational mock-ups of retractable landing gear, wing flaps, etc., will be considered as satisfactory for instructional purposes.

§ 53.26 *Required materials, tools, and shop equipment.* Each applicant shall have an adequate supply of materials and tools and such of the following shop equipment, special tools, and other miscellaneous tools and equipment as are appropriate to the rating sought and used in the construction, maintenance, and repair of aircraft to insure that each student will receive proper instruction in the construction, maintenance, and repair of aircraft. All tools and shop equipment shall be in satisfactory working condition and shall be of a type proper for the purpose for which they are to be used:

(a) Suitable equipment for checking the alignment of crankshafts and master and connecting rods;

(b) Air riveting hammer with controls and indicator;

(c) Heat-treating equipment for rivets and small structural parts;

(d) Bending and forming tools and equipment;

(e) Suitable equipment for sand, reed, or hull blasting;

(f) Cable splicing equipment;

(g) Suitable equipment for localized etching of propellers;

(h) Suitable equipment for measuring propeller pitch angles;

(i) Suitable assortment of go and no-go gauges;

(j) Suitable equipment for steaming and bending aircraft wood;

(k) Suitable equipment for making and testing glued wood joints;

(l) Air compressor with suitable attachments; and

(m) Battery charger and testers.

§ 53.26–1 *Required materials, tools, and shop equipment (CAA policies which apply to §§ 53.26 and 53.22).* The following tools and miscellaneous items, the quantity of each to be governed by the number of students enrolled, will be considered sufficient to assure each student of proper instruction in the construction, maintenance and repair of aircraft. Substitutions may be made if an unlisted tool or item is determined by the inspecting agent to be the equivalent to, or better than, any listed, for instructional purposes. An applicant for a separate rating, either airframe or powerplant, should select the items from the list appropriate to the rating sought, based on the requirements of the curriculum.

(a) Airframe rating:

(1) Jigs and fixtures (as required).
(2) Trammels.
(3) Sand or shot bags.
(4) Work stands and fixtures (as required).
(5) Tire tools.
(6) Plumb bobs.
(7) Level.
(8) Straight edge.
(9) Scales for weighing and balancing complete aircraft, including jacks and pads.
(10) Paint spray equipment, including ventilated spray booth, with facilities for temperature control.
(11) Hand saw, plane, and chisels.
(12) Miter saw.
(13) Table saw.
(14) Band saw.
(15) Sander.
(16) Brace and bits.
(17) Carpenter square.
(18) Cabinet maker clamps.
(19) Paint brushes.
(20) Assorted needles.
(21) Sewing machine (heavy duty).
(22) Fabric table.
(23) Pinking shears.
(24) Clamps and pins.
(25) Number and letter templates.
(26) Plastic and upholstery repair equipment.
(27) Control balancing jigs.
(28) Welding equipment with assortment of tips and supplies.
(29) Welding benches and vises.
(30) Metal saw (powered).
(31) Powered riveting equipment (portable).
(32) Smoothing dollies (metal).
(33) Metal brake (size as required for instructional purposes).
(34) Bucking bars.
(35) Metal shear (size as required for instructional purposes).
(36) Cleces or similar fasteners.
(37) Cold storage box (optional).
(38) Hydraulic test bench.

(b) Powerplant rating:

(1) Cleaning and degreasing equipment.
(2) Special engine tools (as required).
(3) Easy outs.
(4) Torque wrenches.
(5) Feeler gauges.
(6) Plug and thread gauges.
(7) Surface plate.
(8) Vee blocks.
(9) Engine parts inspection bench and racks.
(10) Valve spring compression gauge or comparison method.
(11) Valve grinding and lapping equipment.
(12) Valve and ignition timing tools.
(13) High tension ignition harness tester.
(14) Engine accessory test equipment (bench check).
(15) Engine test stand (stationary or mobile).
(16) Test clubs and propeller installation tools.
(17) Propeller lubricating equipment.
(18) Blade turning bars.
(19) Propeller protractor.
(20) Etching equipment.
(21) Propeller spline, go and no-go gauges.
(22) Balance stand and mandrels.

(c) Miscellaneous equipment applicable to either airframe or powerplant rating:

(1) Grander and buffer.
(2) Drill press and assorted drills.
(3) Assorted hand tools (special wrenches, reamers, etc.).
(4) Magnifying glass (8 to 10 power).
(5) Fluorescent magnetic particle or similar inspection facilities available for instruction (on or off premises).
(6) Lathe, metal turning bench type.
(7) Hand drill (powered) with assorted drills (as required).
(8) Bench arbor press.
(9) Tube fabrication equipment.
(10) Soldering equipment.
(11) Combination square and bubble protractor.
(12) Chain hoist and bridles.
(13) Lubrication equipment.
(14) Steel tape (50 feet).
(15) Taps and dies, assorted sizes (as required).
(16) Assorted "C" clamps.
(17) Inside and outside micrometers.
(18) Wire strippers.
(19) Electrical accessory test bench.
(20) Stakon equipment or equivalent.
(21) Volt-Ohmmeter.

§ 53.27 *Curriculum; general.* An applicant shall offer a curriculum designed to qualify the individuals undergoing instruction to perform the duties of a mechanic for a particular rating or ratings. Each curriculum shall provide at least the number of hours of instruction specified in § 53.23 and shall include instruction in the subjects specified in §§ 53.40 and 53.41. Each curriculum shall be approved by the Administrator and no change therein shall be made without his prior written approval.

§ 53.27–1 *Curriculum; general (CAA policies which apply to § 53.27).* The curriculum should be so designed that

the student will receive the maximum benefit from the instruction by teaching him how to apply the basic fundamentals of mechanics and sound shop practices. To accomplish this purpose, more time should be devoted to shop and laboratory work as opposed to classroom lectures during certain phases of the curriculum. To allow latitude for the adjustment of the hours in these phases, no breakdown of the number of hours for classroom lectures or shop work is specified. However, as a minimum standard, a curriculum should provide at least 60 percent of the total time for shop and laboratory work. It should also provide for continuity between the lecture subjects and the related shop work for each phase of the curriculum.

§ 53.28 *Curriculum; number of hours.* At least the following number of hours of instruction shall be offered for each of the following curricula:

(a) Airframe; 960 hours.
(b) Powerplant; 960 hours.
(c) Combined airframe and powerplant; 1,650 hours.

§ 53.40 *Airframe curriculum.* The airframe curriculum shall include the following subjects:

(a) Parts 1, 3, 4a, 4b, 5, 6, 8, 9, 18, 24, 43, 52, and 62 of this subchapter as amended, appropriate to the curriculum;
(b) Tools, instruments, equipment, their use and care;
(c) Shop practice and procedures, use of forms;
(d) Woodworking;
(e) Welding steel structures and fittings;
(f) Aluminum alloy structures and fittings;
(g) Sheet metal, steel, stainless steel, terneplate, aluminum and aluminum alloy;
(h) Welding, riveting, and heat-treating of steel, stainless steel, aluminum, aluminum alloy, structure, stock, and fittings;
(i) Controls and control surfaces;
(j) Splicing cables, bonding, brazing, and soldering;
(k) Hydraulic systems;
(l) Vacuum systems;
(m) Electrical systems;
(n) Fuel systems;
(o) Covering, fabric and stressed skin;
(p) Landing gear assembly;
(q) Assembly and rigging;
(r) Appliances: Instruments, radio, floats, flares, heaters, etc.,
(s) Inspection of certificated aircraft, use of forms, etc.;
(t) Aircraft theory and practice;
(u) Mechanical drawing, and
(v) Aircraft weight and balance.

§ 53.40–1 *Airframe curriculum (CAA policies, which apply to §§ 53.40 and 53.27)* The airframe curriculum should include the scope and coverage of the subjects outlined below. However, the curriculum need not necessarily be presented in this order since the breakdown of the various course phases is primarily intended to assist the applicant in preparing the curriculum.

(a) Basic:

(1) Shop mathematics (elementary).
(2) Physics (elementary).
(3) Theory of flight.
(4) Nomenclature of aircraft, its component parts and appliances.
(5) Weight and balance, including its effect on stability and performance.
(6) Shop practice.
(7) Drafting.
(8) Mechanic ethics and legal responsibilities.
(9) Proper execution of required maintenance and airworthiness documents.
(10) Demonstrations on projects consisting of:
(i) Filing, drilling, tapping, countersinking, counterboring, taper and straight reaming, threading, etc.
(ii) All types of safetying such as cotter pins, safety wire, etc.
(iii) Orthographic projection and uses of all phases of drafting relating to this type of drawing.
(iv) Blueprint reading.
(v) Use and care of basic tools.

(b) Woodwork:

(1) Identification of woods used in aircraft structures.
(2) Inspection of aircraft woods for airworthiness and causes for rejection.
(3) Drying and storing of wood.
(4) Steaming and bending woods.
(5) Veneer, laminated wood and plywood.
(6) Plywood as used for stressed skin.
(7) Gluing of wood.
(8) Glue, kinds used in aircraft, preparation, and use.
(9) Grain, annular rings, knots, pitch pockets, compression wood, decayed and warped wood, including the standards for acceptance and rejection.
(10) Procedure to be followed in repair, splicing and gluing of wood joints.
(11) All pertinent Civil Air Regulations pertaining to woodworking.
(12) Construction of a wing rib.
(13) Repair of broken wing rib.
(14) Spar splice.
(15) Repair of stressed plywood skin.
(16) Repair of a rib attached to a wing.
(17) Perform at least one project whereby the operation of the following power tools will be used: power circular saw, sander, band saw, and drill press.
(18) Trammel and align a wood airplane wing.

(c) Sheet metal and welding:

(1) Equipment, proper use and care of welding equipment.
(2) Care and selection of proper materials to be used in making all types of welded joints, such as fluxes, welding rods, etc.
(3) Penetration and fusion of welds—hot, cold, and burned welds; causes and prevention of.
(4) Preparation of materials for welding.
(5) All types of welded joints such as fillet welds, butt welds, spot welds, rosette welds, tack welds, and angular welds.
(6) Visual inspection of welded joints, general appearance of satisfactory and unsatisfactory welds.
(7) Limitations for use of electric welding (theoretical).
(8) Warping due to welding; cause, prevention, and correction.
(9) Properties of metals.
(10) Identification of aircraft structural tubing.
(11) Heat treatment of steel structures and fittings, which should include hardening, tempering, annealing, and normalizing, surface hardening methods, procedures, purposes, methods, usage, application and identification of (theory).
(12) Repairs to heat treated structures, when permissible and re-heat treating (theory).
(13) Proper equipment and tools for cutting, fitting, aligning, and welding of tubular structures.
(14) Joints and splices, insert, sleeve, fishmouth, and angular.
(15) Proper procedure used in common practice to replace or repair damaged steel tubular structure, including cluster joints and fittings.
(16) Fabrication, assembly, and alignment of tubular structures, the use of jigs, trammels, levels, and protractors.
(17) Marking of fittings for bending, proper and prohibited practices.
(18) Cutting, fitting, welding, and fabrication of aircraft structural tubing from drawings.
(19) Protective materials and finish, purpose, selection and application, exterior and interior.
(20) Care and selection of proper materials to be used in making all types of welded joints such as fluxes, welding rods, etc.
(21) Brazing.
(22) Silver soldering.
(23) Soldering stainless steel.
(24) Oxy-acetylene welding.
(25) Finishing stainless steel.
(26) Procedure to be used in riveting, selection and inspection of materials, and causes for rejection.
(27) Rivets, heat treated and others, their identification, where used, and limitations and precautions to be observed in the preparation, storage, care, and use of heat treated rivets.
(28) Riveted joints and structures, fabrication of.
(29) Cutting, forming, drilling, fitting, and alignment for riveting.
(30) Heat treatment of aluminum alloy rivets, sheet stock, fittings, structures, etc., purpose, procedure, types, methods, usage, application and identification of. This should including hardening and annealing.
(31) Repairs to heat treated aluminum alloy structures, when permissible, and re-heat treating.
(32) Identification of aluminum and aluminum alloy materials, properties, strength, usage, weight, and their handling. This should include 2S, 3S, 17S, 24S, 52S, 53S, 51S, 75S and A17A.
(33) Fabrication of aluminum alloy structures and fittings.
(34) Cutting, fitting and fabrication of aircraft structure, and fittings from drawings.
(35) Equipment and tools necessary in the fabrication of aluminum alloy structure and fittings, their use and care.
(36) Protective applications, purpose, selection, exterior and interior.
(37) Corrosion; causes and prevention and susceptibility of aluminum and its alloys to corrosion.
(38) Precautions and limitations concerning the repair of aluminum alloy fittings.
(39) Precautions to be observed for aluminum alloy materials when attached to and in contact with certain other materials and metals.
(40) Repair and maintenance of cowling and cowl fastening.
(41) Cleaning of aluminum and aluminum alloys, care to be used in selection of materials for this purpose.
(42) Cutting, forming, bending, fitting, and fabrication of stressed skin metal covering, including its repair.
(43) Computing bend allowance and application of same on flat sheet layout.
(44) Manner and procedure of attaching metal skin to structure.
(45) Construction, repair and maintenance of fuel and oil tanks, and precautions to be observed in service and repair of same.
(46) Floats and hulls; construction, repair and protective applications.
(47) Firewalls, installation, and regulations pertaining thereto.
(48) Cowling, fairing, streamlining, covering, etc., installation, care, repair, and inspection.
(49) Procedure, materials, and equipment used in hand forming intricate shapes and compound curves from sheet metal.
(50) Magnesium alloys used in aircraft.
(51) Blind type of sheet metal fasteners.
(52) Typical aircraft repairs to metal spars, ribs, bulkheads, and stringers.
(53) Repair of metal trailing edges of wings and control surfaces.

(54) All applicable Civil Air Regulations.

(d) Fabric covering and finishing:

(1) Identification of fabrics to be used for covering.
(2) Cutting and fitting.
(3) Thread, cord, tapes, selection, use and application of.
(4) Inspection before applying covering.
(5) Removing old protective coatings from structural members.
(6) Protective coatings for structural part to be covered by fabric.
(7) Machine sewing, hand sewing, tacking, and ribstitching, knots, spacing, etc.
(8) Inspection openings, location, and number required.
(9) Fabric repairs and the testing of used fabric.
(10) Application of protective materials for coverings, both by hand and spray guns, their mixing, selection, and purpose served.
(11) Equipment required in the application of protective materials, use of same, and precautions to be observed in applying.
(12) Rejuvenation of protective coating.
(13) Location, dimensions, and regulations pertaining to the application of symbols, numbers, and letters for the identification of aircraft; procedure to be followed in applying.
(14) Determination of the grade of fabric to be applied to a specific aircraft.
(15) Estimates in the cost of fabric covering, refinishing, and repairs.
(16) Civil Air Regulations pertaining to the above.

(e) Fuel systems:

(1) Fuel line installation, annealing, beading, attachment, size and capacity, and precautions to be observed in installation. Fuel system inspection; identification of flexible lines and specifications relating thereto.
(2) Hose connections, liners, clamps, strainer fittings, drains, and control valves.
(3) Fuel tanks, installation, padding, ventilation, draining, cleaning, repairing, inspection, and testing.
(4) Gauges, caps and markings for content and capacity.
(5) Fuel system components.
(6) Fuel transfer systems.
(7) Explanation and trouble shooting of typical fuel systems.
(8) Civil Air Regulations pertaining to the above.

(f) Landing gear assembly:

(1) Types of landing gears, shock units, fabrication, materials used, and installation, maintenance, repair, adjustment, and inspection.
(2) Alignment of landing gears.
(3) Brakes, wheels, tires, etc.
(i) Operation, inspection, maintenance, repair, adjustment and bleeding of shoe, tube, and disc type brakes.
(ii) Operation, disassembly, inspection, maintenance, and repair of push type, pull type, and diaphragm type master cylinders.
(iii) Trouble shooting of the various individual brake systems.
(4) Inspection, maintenance, and lubrication of wheel bearings.
(5) Civil Air Regulations pertaining to the above.

(g) Hydraulic and pneumatic systems:

(1) Basic hydraulic and pneumatic principles.
(2) Explanation of the basic systems and the working principles of the component parts.
(3) Explanation of the constant pressure system and the operation and adjustment of the various units used.
(4) Operation, adjustment, and inspection of power brake systems.
(5) Operation, adjustment, and inspection of wing flap systems.
(6) Operation, adjustment, and inspection of landing gear retraction systems.
(7) Trouble shooting of all the above systems.
(8) Flaring and bending of aircraft tubing to definite specifications.
(9) Installation, identification, and replacement of lines and fittings.
(10) Servicing, disassembly, inspection, testing, and adjustment of the component parts of the basic and constant pressure systems.

(h) Aircraft electrical systems:

(1) Installation, bonding, conduits, materials to be used and precautions to be observed in installation.
(2) The reading of aircraft electrical blueprints.
(3) Navigation, cabin, and landing light installation, repair, maintenance, and inspection.
(4) Batteries, battery boxes, drains, vents, cables, switches, and connections.
(5) Lighting systems, fuses, switches, their installation and inspection.
(6) Power units, such as flap motors, landing gear retraction motors, generators, etc.
(7) Trouble shooting on electrical systems.

(i) Radio installation and inspection:

(1) Federal Communications Commission Regulations pertaining to installation and operation of two-way radio.
(2) Shock panel installation.
(3) Method of connecting leads.
(4) Methods of insulating all wiring.
(5) String tying or other approved method for looming electrical wiring.
(6) Reading of wiring diagrams.
(7) Antenna installation.
(8) Use of shielding and bonding.

(j) Instrument installation and inspection:

(1) Instrument panel layout and installation.
(2) Construction, operation, and line inspection of engine and flight instruments.

(k) Assembly and rigging, including control cables, controls, and control surfaces:

(1) Equipment, instruments, and tools required, and their uses.
(2) Approved control cables; splicing, swaging, installation, and inspection.
(3) Types of control systems and control-operating mechanisms.
(4) Assembly, rigging, service, repair, adjustment, and inspection of aircraft controls, and control surfaces including the aerodynamic considerations to be observed in their assembly and rigging.
(5) General aircraft assembly.
(6) Rigging the aircraft.
(7) Adjustments for minor flight discrepancies.
(8) Procedure to be followed for the installation, inspection, and maintenance of floats and skis; regulation pertaining to selection of same for approved stressed load, etc.
(9) Practical demonstration by students in weighing and balancing an aircraft including necessary computations.
(10) Civil Air Regulations pertaining to the above.

(l) Aircraft appliances and miscellaneous:

(1) Flares; installation, inspection, and precautions to be observed.
(2) Safety belts; regulations pertaining thereto, installation, testing, and inspection.
(3) Cabin heaters and pressurizing equipment; installation, repair, and inspection.
(4) De-icing and anti-icing equipment (theory).
(5) General servicing including fueling, refueling equipment, hand starting, preflight inspection, and engine runup.
(6) Precautions against fire damage, type of fire extinguishers to use, inspection, etc.
(7) Use of battery service cart.
(8) Cleaning the aircraft; equipment and methods used.
(9) Aircraft parking, tie-down, storage, etc.
(10) Civil Air Regulations pertaining to above.

(m) Inspection of certificated aircraft:

(1) Conducting a thorough and detailed inspection of an aircraft for reissuance of its airworthiness certificate.
(2) Types of inspection, by whom conducted, when required, and records of same.
(3) Preparation and use of Repair and Alteration Form ACA-337 after completing repairs or alterations, including other data, drawings, etc., which may be required by CAR.
(4) Airworthiness directives, aircraft specifications, manufacturers' bulletins, etc.; how obtained, purpose and use.
(5) Log book entries.
(6) Civil Air Regulations pertaining to above.

§ 53.41 *Powerplant curriculum.* The powerplant curriculum shall include the following subjects:
(a) Parts 1, 3, 4a, 4b, 6, 8, 9, 13, 14, 18, 24, 43, 52, and 62, of this subchapter, as amended, appropriate to the curriculum;
(b) Instruments and equipment, their use and care;
(c) Shop practice and procedures, use of forms;
(d) Fundamental powerplant requirements;
(e) Mechanical drawing;
(f) Powerplant design and construction;
(g) Carburetor and fuel injection systems;
(h) Ignition systems;
(i) Supercharging systems;
(j) Starting, generating, and regulating systems;
(k) Fuels and fuel systems;
(l) Lubrication systems;
(m) Operation and trouble shooting;
(n) Disassembly, overhaul, repair, and assembly;
(o) Inspection, use of inspection tools, theory of magnetic partical and fluorescent penetrant;
(p) Block testing;
(q) Propeller installation and maintenance;
(r) Powerplant installation;
(s) Powerplant maintenance;
(t) Turbojet, turboprop, and compound engines;
(u) Theory and principles of powerplant operation;
(v) Aircraft powerplant development, and
(w) Aircraft weight and balance.

§ 53.41-1 *Powerplant curriculum (CAA policies which apply to §§ 53.41 and 53.27).* The powerplant curriculum should include the scope and coverage of the subjects as outlined below. However, the curriculum need not necessarily be presented in this order since the breakdown of the various course phases is primarily intended to assist the applicant in preparing the curriculum.

(a) Basic: Same as airframe.

(b) Powerplant overhaul and operation:

(1) Four stroke cycle principles.
(2) Theory of operation and fundamental principles of turbojet, turboprop, and com-

pound engines (demonstration models for these engines not required).
(3) Power output factors, conversion of energy to B. M. P.
(4) Horsepower and its calculation.
(5) The engine and its parts; nomenclature, function, and design features.
(6) Engine disassembly, care in the handling of parts and tools; shop cleanliness and safety.
(7) Cleaning procedures and selection of proper cleaners.
(8) Explanation of manufacturers' limitations.
(9) Inspection of engine parts, use of precision instruments such as micrometers, dial gauges, maximum wear gauges, etc.
(10) Magnetic particle and penetrant inspection; operation of equipment and interpretation of indications.
(11) Recording the inspection and other engine overhaul phases.
(12) Approved engine repair procedures such as re-bushing, replacing valve guides, replacing studs, etc.
(13) Use of hand tools such as drills, reamers, taps, and dies.
(14) Use of common engine overhaul equipment such as valve grinders, seat reamers, lathes, etc.
(15) Engine disassembly, cleaning, inspection of parts, tolerances, repairs and replacements, reassembly, torque valves, timing installations, inspection, and safetying. This shall include but is not limited to:
(i) Valve grinding, seat refacing, guide and seat replacement, etc.
(ii) Valve and ignition timing.
(iii) Engine installation and inspection.
(16) Accessory buildup, run-in and testing the engine after overhaul or repair.
(17) Cold weather starting, operation, and stopping procedures.
(18) General trouble shooting.
(19) General servicing including fueling, refueling equipment, hand starting, preflight inspection, and engine run-up.
(20) Preparation of the engine for storage; purpose of clear gas run; use of CAA forms pertaining to maintenance, repair, overhaul, etc.
(21) Cost estimates, records, parts ordering and stocking, and the general rules pertaining to the operation of an engine repair and overhaul shop.
(22) Civil Air Regulations pertaining to the operation, repair, and overhaul of engines.

(c) Carburetion:

(1) Theory and principles of carburetion.
(2) Types of carburetors; their construction, installation, operation, repair, maintenance, adjustment, and inspection.
(3) Induction systems, diffusers, blowers, superchargers, carburetor heaters, air mazes, etc.
(4) Carburetor troubles and corrective measures.
(5) Bench testing carburetors (float level, fuel flow, etc.).
(6) Fuel systems and their component parts.
(7) Aircraft fuel specifications and fuels to be used in aircraft operation.

(d) Electrical systems and accessories:

(1) Theory of basic electricity, magnetism, nomenclature, and related terms.
(2) Aircraft starters; types, principles, theory, electrical hookup, and operation (motors).
(3) Boosters; types, theory, electrical hookup, and operation.
(4) Generators; types, theory, electrical hookup, maintenance, and trouble shooting.
(5) Selection of wires or cables; sizes, soldering, terminal, and swaging.
(6) Construction and use of continuity test equipment; voltmeters, ammeters, ohmmeters, in the location of troubles in electrical units and circuits. Fuses; installation and precautions to be followed in replacement.
(7) Mockup work representing the entire aircraft electrical system and power source as related to the engine. Installation of equipment on aircraft.
(8) Complete overhaul procedure; starters, generators, and motors.
(9) Installation, adjustment of generator control boxes, boosters, etc.
(10) Spark plugs; types, theory, maintenance, installation, and trouble shooting.
(11) Battery ignition system; principles and function.
(12) Magneto ignition, high tension, low tension; theory, principles, maintenance, trouble shooting.
(13) Ignition harnesses, plastic, supercharged, standard, shielded, unshielded; theory, troubles, maintenance, testing.
(14) Aircraft batteries; types, capacity, theory, maintenance, charging, and installation.
(15) Use of all types of test equipment necessary to the maintenance, repair, and inspection of all the above types of equipment.

(e) Lubrication:

(1) Theory and purpose of lubrication.
(2) Oils and lubricants; types, grades, and properties.
(3) Lubrication systems; dry and wet sump, splash and pressure.
(4) Pumps; types, installation, location, actuation, operation, construction, maintenance, repair, and inspection.
(5) Lines, hose connections, tanks, drains, vents, filters, etc., their installation, care and inspection.
(6) Heating and cooling; radiators, lagging, etc. Installation, maintenance, repair and inspection.
(7) Pressure relief valves; types, location, purpose, adjustment, maintenance, repair and inspection. Trouble shooting, high and low pressures, engine symptoms due to lubrication problems.

(f) Propellers:

(1) Aircraft propeller theory.
(2) Types; wood and metal, fixed, adjustable, controllable, automatic, feathering, etc.
(3) RPM and HP ratings, limitations, and use.
(4) Propeller including hub and blade; identification data, location, etc.
(5) Maintenance and servicing of propellers.
(6) Alterations and modifications, repairs and inspections as recommended by the propeller manufacturer and in accordance with Civil Air Regulations; the extent of repairs permissible and by whom to be made, including changes in marking.
(7) Theory of local etching and magnetic particle inspection, procedure, purpose and extent used. Records; where recorded and by whom.
(8) Tracking of propellers, purpose and procedure.
(9) Propeller removal and installation and proper fitting; changes in installation to reduce vibration for representative types and models of all popular propellers.
(10) Equipment, tools and instruments necessary to properly adjust, service, and make such repairs as are permissible; the use and care of this equipment. Special emphasis is to be placed on safetying devices such as lock rings, lock wires, cotter pins, clevis pins, safety wire, etc.
(11) Maintenance, adjustment, and operation of controllable propellers.
(12) Maintenance, adjustment, and operation of the constant speed governor.
(13) Construction, adjustment, operation, maintenance of the hydromatic propeller.
(14) Construction, adjustment, and operation of electric propellers (theory).
(15) Operation of synchronization systems.
(16) Propeller de-icing and anti-icing systems (theory).
(17) Construction and operation of reverse thrust propellers (theory).
(18) Proper use and care of propeller maintenance, repair and testing equipment.

§ 53.42 *Instructors.* An applicant shall have that number of instructors holding appropriate mechanic certificates and ratings and such other qualified personnel as the Administrator determines necessary to provide adequate instruction and supervision of the students.

§ 53.42–1 *Instructors (CAA policies which apply to § 53.42.)* The applicant may use specialized instructors who are not certificated mechanics for giving instruction on subjects such as mathematics, physics, drawing, etc.

OPERATING RULES

§ 53.50 *Operating rules; general.* All holders of mechanic school certificates with appropriate ratings shall, in the conduct of the school, comply with the operating rules set forth in §§ 53.41 through 53.56.

§ 53.51 *Quality of instruction.* The quality of instruction shall be such that at least 80 per cent of the students who apply within 60 days after graduation for mechanic certificates and ratings appropriate to the curriculum from which they were graduated will be able to qualify for such certificates and ratings.

§ 53.52 *Hours of attendance.* No student shall be required to attend any class or classes of instruction for more than 8 hours in any day, or more than 6 days or 40 hours in any seven-day period.

§ 53.52–1 *Hours of attendance (CAA interpretations which apply to § 53.52)* No student will be required to attend any class or classes of instruction more than 8 hours in any day, and in no case more than 40 hours in any seven-day period, or more than 6 days in any seven-day period. In the event a student be required to attend classes of instruction for more than 5 days of a seven-day period, the total attendance time shall not exceed the 40-hour limit.

§ 53.53 *Examinations.* Upon completion of each subject included in any approved curriculum each student shall be given an appropriate examination.

§ 53.53–1 *Examinations (CAA interpretations which apply to § 53.53)* The examinations given by the approved school are to test the students' knowledge of the subjects just completed, and do not constitute the CAA examinations required by Part 24 of the Civil Air Regulations for the issuance of a mechanic certificate.

§ 53.54 *Transcript of grades.* A certificated mechanic school shall furnish a transcript of grades for each graduate and each student leaving the school prior to graduation. The transcript shall be propery authenticated by an official of the school, and it shall state the curriculum and courses in which the student was enrolled, whether the student satisfactorily completed the particular curriculum and courses, and the final grades received in each course.

§ 53.55 *Graduation certificate.* A certificated mechanic school shall furnish each graduate a graduation certificate properly authenticated by an official of the school. Each graduation certificate shall show the date of graduation.

§ 53.55–1 *Graduation certificate (CAA policies which apply to § 53.55)* The grade on the Graduation Certificate, Form ACA–391, should be an average grade, and should reflect the standard of performance of the student during the entire course and not just the grade made on the final examinations given by the school.

§ 53.56 *Required student records.* A certificated mechanic school shall maintain a current record of each student enrolled, showing the student's attendance, courses in which enrolled, examinations, and grades. These records shall be retained by the school for at least 2 years from the date of termination of enrollment. During such period the records shall be available for inspection by an authorized representative of the Administrator or the Board.

§ 53.56–1 *Required student records (CAA policies which apply to § 53.56)* (a) A certificated mechanic school should also maintain a progress chart or an individual progress record for each student, showing the practical projects or laboratory work completed, or to be completed, by the student in each phase of the approved course. The chart, or record, should be kept current so that at all times a record of the student's progress will be available.

(b) When a certificated mechanic school applies credit toward the completion of its approved course for work satisfactorily completed by a student at another mechanic school, accredited college, state-owned vocational or trade school, or military technical specialty school, the records should contain a properly authenticated transcript of grades from such school, including the curriculum in which the applicant was enrolled, listing each major instructional unit or subject, the hours of attendance, and the grades for each subject.

§ 53.57 *Maintenance of facilities, equipment, and material.* The holder of a mechanic school certificate shall maintain all facilities, equipment, and material in conformity with the standards required for the original issuance of the certificate.

§ 53.58 *Reports.* On the 1st day of January and July of each year, and at such other times as the Administrator may require, every holder of a mechanic school certificate shall transmit to the Administrator a correct and completely executed report on the form prescribed and furnished by the Administrator. Such reports shall include the following information as to students enrolled in the course or courses approved by the Administrator:

(a) The names of all students enrolled;

(b) The course or courses for which they are enrolled;

(c) The names of the students who have been graduated within the period covered by the report and the course or courses from which graduated;

(d) The names of all students dropped from enrollment within the period covered by the report and the reasons therefor.

§ 53.58–1 *Reports (CAA rules which apply to § 53.58)* On the 1st day of January and July of each year, the holder of a mechanic school certificate shall transmit to the local CAA Aviation Safety District Office a correct and completely executed Mechanic School Report, Form ACA–392.

(Sec. 205, 52 Stat. 984; 49 U. S. C. 425. Interpret or apply secs. 601, 607, 52 Stat. 1007, 1011; 49 U. S. C. 551, 557)

This supplement shall become effective August 15, 1953.

[SEAL] F. B. LEE,
Administrator of Civil Aeronautics.

[F. R. Doc. 53–6470; Filed, July 22, 1953; 8:45 a. m.]

Chapter II—Civil Aeronautics Administration, Department of Commerce

[Amdt. 42]

PART 610—MINIMUM EN ROUTE IFR ALTITUDES

MISCELLANEOUS AMENDMENTS

The minimum en route IFR altitudes appearing hereinafter have been coordinated with interested members of the industry in the regions concerned insofar as practicable. The altitudes are adopted without delay in order to provide for safety in air commerce. Compliance with the notice, procedures, and effective date provisions of section 4 of the Administrative Procedure Act would be impracticable and contrary to the public interest, and therefore is not required.

Part 610 is amended as follows:

1. Section 610.235 *Red civil airway No. 35* is amended to read in part:

From—	To—	Minimum altitude
Hutchinson, Kans. (LFR).	Newton (INT), Kans.	3,000
Newton (INT), Kans.	Cassoday (INT), Kans.	2,700

2. Section 610.643 *Blue civil airway No. 43* is amended to read in part:

From—	To—	Minimum altitude
Susitna (INT), Alaska.	Willow (INT), Alaska[1].	1,500

[1] 2,500'—Minimum crossing altitude at Willow (INT), northbound.

3. Section 610.1001 *Direct route, United States* is amended to eliminate:

From—	To—	Minimum altitude
Knoxville, Tenn. (LFR).	McDonald (INT), W. Va., via Glenbrook, Ky. (VAR).	6,000

4. Section 610.1002 *Direct route, Alaska* is amended to read in part:

From—	To—	Minimum altitude
Gustavus, Alaska (LFR).[1]	Sitka, Alaska (LFR)[2].	5,000

[1] 2,500'—Minimum crossing altitude at Gustavus (LFR), southbound.
[2] 2,500'—Minimum crossing altitude at Sitka (LFR), northbound.

5. Section 610.6004 *VOR civil airway No. 4* is amended to read in part:

From—	To—	Minimum altitude
Kansas City, Mo. (VOR).	Orrick (INT), Mo.[1]	[2] 3,400
Orrick (INT), Mo.[1]	Marshall (INT), Mo.[1]	[2] 3,400
Marshall (INT), Mo.[1]	Columbia, Mo. (VOR).	[2] 3,400
Columbia, Mo. (VOR).	Moscow Mills (INT), Mo.[3]	2,100
Kansas City, Mo. (VOR), via N. alter.	Tina (INT), Mo., via N. alter.	[2] 3,100
Tina (INT), Mo., via N. alter.	Columbia, Mo. (VOR), via N. alter.	[2] 4,000

[1] 4,000'—Minimum reception altitude.
[2] 2,400'—Minimum terrain clearance altitude.
[3] 3,000'—Minimum reception altitude.

6. Section 610.6010 *VOR civil airway No. 10* is amended to read in part:

From—	To—	Minimum altitude
Hutchinson, Kans. (VOR), Dir. or N. alter.	Emporia Kans. (VOR), Dir. or N. alter.	3,300
Kansas City, Mo. (VOR), via S. alter.	Tina (INT), Mo., via S. alter.	[1] 3,100
Tina (INT), Mo., via S. alter.	Kirksville, Mo. (VOR), via S. alter.	[1] 3,100

[1] 2,400'—Minimum terrain clearance altitude.

7. Section 610.6012 *VOR civil airway No. 12* is amended to read in part:

From—	To—	Minimum altitude
Kansas City, Mo. (VOR).	Orrick (INT), Mo.[1]	[2] 3,400
Orrick (INT), Mo.[1]	Marshall (INT), Mo.[1]	[2] 3,400
Marshall (INT), Mo.[1]	Columbia, Mo. (VOR).	[2] 3,400
Columbia, Mo. (VOR).	Moscow Mills (INT), Mo.[3]	2,100
Kansas City, Mo. (VOR), via N. alter.	Tina (INT), Mo., via N. alter.	[2] 3,100
Tina (INT), Mo. via N. alter.	Columbia, Mo. (VOR), via N. alter.	[2] 4,000

[1] 4,000'—Minimum reception altitude.
[2] 2,400'—Minimum terrain clearance altitude.
[3] 3,000'—Minimum reception altitude.

8. Section 610.6016 *VOR civil airway No. 16* is amended by adding:

From—	To—	Minimum altitude
Columbus, N. Mex. (VOR).	Animas (INT), N. Mex. (westbound).[1]	10,000

[1] 10,000'—Minimum reception altitude.

9. Section 610.6066 *VOR civil airway No. 66* is amended by adding:

From—	To—	Minimum altitude
Columbus, N. Mex. (VOR).	Animas (INT), N. Mex. (westbound).[1]	10,000

[1] 10,000'—Minimum reception altitude.

10. Section 610.6077 *VOR civil airway No. 77* is amended to read in part:

From—	To—	Minimum altitude
Ponca City, Okla. (VOR).	Wichita, Kans. (VOR).	3,000

(Sec. 205, 52 Stat. 984; as amended; 49 U. S. C. 425. Interpret or apply sec. 601, 52 Stat. 1007, as amended; 49 U. S. C. 551)

These rules shall become effective July 28, 1953.

[SEAL] F. B. LEE,
Administrator of Civil Aeronautics.

[F. R. Doc. 53-6471; Filed, July 22, 1953; 8:45 a. m.]

TITLE 15—COMMERCE AND FOREIGN TRADE

Chapter III—Bureau of Foreign and Domestic Commerce, Department of Commerce

Subchapter C—Office of International Trade

[6th Gen. Revision of Export Regs., Amdt. 56 [1]]

PART 370—SCOPE OF EXPORT CONTROL BY DEPARTMENT OF COMMERCE

EXPORTATIONS AUTHORIZED BY GOVERNMENT AGENCIES OTHER THAN OIT

The provisions presently contained in §§ 370.4 *Arms, ammunition, and implements of war; helium,* 370.5 *Gold and narcotics,* 370.6 *Exportation of commodities subject to Atomic Energy Act,* and 370.7 *Vessels, other than vessels of war* are incorporated into a single new § 370.4 to read as follows:

§ 370.4 *Exportations authorized by government agencies other than OIT*—(a) *Arms, ammunition, and implements of war; helium.* Regulations promulgated by the Secretary of State under the authority of section 12 of the Joint Resolution of Congress approved November 4, 1939 (54 Stat. 11, 22 U. S. C. 452) shall continue to govern the exportation of arms, ammunition, and implements of war, and helium, except that no export license shall be issued where the proposed exportation would be contrary to the foreign policy of the United States.

NOTE: 1. *Arms, ammunition, and implements of war.*

(a) Regulations concerning the exportation of arms, ammunition, and implements of war are published in the document *International Traffic in Arms.* Copies of this publication are furnished by the Department of State upon request.

(b) An application to export any of the following articles, which are listed in Proclamation 2776, effective April 15, 1948, should be made on the license form obtainable from the Department of State.

(c) Any inquiries as to the applicability of Proclamation 2776 to certain articles or commodities, application forms and procedure, or other matters relative to arms, ammunition, and implements of war should be addressed to the Office of Munitions Control, Department of State, Washington 25, D. C.

CATEGORY I—SMALL ARMS AND MACHINE GUNS

Rifles, carbines, revolvers, pistols, machine pistols, and machine guns (using ammunition of caliber .22 or over); barrels, mounts, breech mechanisms and stocks therefor.

CATEGORY II—ARTILLERY AND PROJECTORS

Guns, howitzers, cannon, mortars, and rocket launchers (of all calibers), military flame throwers, military smoke, gas, or pyrotechnic projectors; barrels, mounts, and other components thereof.

CATEGORY III—AMMUNITION

Ammunition of caliber .22 or over for the arms enumerated under I and II above; cartridge cases, powder bags, bullets, jackets, cores, shells (excluding shotgun); projectiles and other missiles; percussion caps, fuses, primers, and other detonating devices for such ammunition.

CATEGORY IV—BOMBS, TORPEDOES AND ROCKETS

Bombs, torpedoes, grenades, rockets, mines, guided missiles, depth charges, and components thereof; apparatus and devices for the handling, control, discharge, detonation or detection thereof.

CATEGORY V—FIRE CONTROL EQUIPMENT AND RANGE FINDERS

Fire control equipment, range, position, and height finders, spotting instruments, aiming devices (gyroscopic, optic, acoustic, atmospheric or flash), bomb sights, gun sights, and periscopes for the arms, ammunition, and implements of war enumerated in this proclamation.

CATEGORY VI—TANKS AND ORDNANCE VEHICLES

Tanks, armed or armored vehicles, armored trains, artillery and small arms repair trucks, military half tracks, tank recovery vehicles, tank destroyers; armor plate, turrets, tank engines, tank tread shoes, tank bogie wheels and idlers therefor.

CATEGORY VII—POISON GASES AND TOXICOLOGICAL AGENTS

All military toxicological and lethal agents and gases; military equipment for the dissemination and detection thereof and defense therefrom.

CATEGORY VIII—PROPELLANTS AND EXPLOSIVES

Propellants for the articles enumerated in Categories III, IV, and VII; military high explosives.

CATEGORY IX—VESSELS OF WAR

Vessels of war of all kinds, including amphibious craft, landing craft, naval tenders, naval transports and naval patrol craft, armor plate and turrets therefor; submarine batteries and nets, and equipment for the laying, detection, and detonation of mines.

CATEGORY X—AIRCRAFT

Aircraft; components, parts and accessories therefor.

CATEGORY XI—MISCELLANEOUS EQUIPMENT

(*a*) Military radar equipment, including components thereof, radar countermeasures and radar jamming equipment; (*b*) military stereoscopic plotting and photo interpretation equipment; (*c*) military photo theodolites, telemetering, and Doeppler equipment; (*d*) military super-high speed ballistic cameras; (*e*) military radiosondes; (*f*) military interference suppression equipment; (*g*) military electronic computing devices; (*h*) military miniature and subminiature vacuum tubes and photoemissive tubes; (*i*) military armor plate; (*j*) military steel helmets; (*k*) military pyrotechnics; (*l*) synthetic training devices for military equipment; (*m*) military ultrasonic generators; (*n*) all other material used in warfare which is classified from the standpoint of military security.

2. *Helium gas.*

(a) *General regulations.* Regulations governing the exportation of helium gas may be found in the document *International Traffic in Arms,* published by the Department of State.

(b) *Legislative authority.* Helium gas is licensed for export under the authority of the act of September 1, 1937. Application blanks for the exportation of this commodity are also furnished by the Office of Munitions Control, Department of State.

(b) *Gold.* The gold regulations (31 CFR Part 54) promulgated by the Secretary of the Treasury under the Gold Reserve Act of 1934 (48 Stat. 337) and section 5 (b) of the Act of October 6, 1917, as amended by section 2 of the Act of March 9, 1933 (48 Stat. 1), shall govern the exportation of gold except that the exportation of fabricated gold (as defined in § 54.4 of said regulations) of which not more than 80 percent of the total domestic value is attributable to the gold content thereof shall also be subject to Parts 370 to 399, inclusive, of this subchapter.

NOTE: The exportation of "fabricated gold" as defined in the Gold Regulations issued by the Treasury Department (31 CFR 54.4) is controlled by the Department of Commerce under an arrangement with the Treasury Department. All "fabricated gold" commodities which are not included on the Positive List may be exported to any destination, except Hong Kong, Macao and Subgroup A destinations, under Department of Commerce General License GRO. (See § 371.8 of this subchapter.) For the export of "semi-processed gold," as defined in 31 CFR 54.4, an application for a license to export must be filed with the Bureau of the Mint, Treasury Department.

Exporters are cautioned that "semi-processed gold" (as defined by the Gold Regulations) presented for export as "fabricated gold" is subject to seizure.

(c) *Narcotics.* The regulations contained in Parts 370 to 399, inclusive, of this subchapter shall not govern the exportation of narcotic drugs and marihuana subject to the Narcotics Drugs Import and Export Act (21 U. S. C. 171 et seq.) and Marihuana Tax Act of 1937 (26 U. S. C. 2590, 3230 et seq.), as amended, respectively, and regulations promulgated thereunder, administered by the Treasury Department, Bureau of Narcotics.

NOTE: Under the provisions of the Narcotics Drugs Import and Export Act, as amended, and the federal marihuana laws, the authority to control exports and imports of narcotic drugs, which are listed below, is vested in the Treasury Department, Bureau of Narcotics:

(1) Opium and its derivatives.
(2) Coca leaves and their derivatives.
(3) Marihuana or cannabis.
(4) Isonipecaine (Demerol).
(5) Amidone or Methadon (Adanon and Dolophine—trade names).
(6) Any medicine or preparation containing any quantity of the foregoing drugs or their derivatives.

(d) *Commodities subject to Atomic Energy Act.* Regulations promulgated by the Atomic Energy Commission under the authority of the Atomic Energy Act of 1946 (10 CFR Parts 40 and 50), or as

[1] This amendment is published in Current Export Bulletin No. 709, dated July 23, 1953.

the same may be amended from time to time, shall govern the exportation of "source material" and "facilities for the production of fissionable material" as defined and described in said act and regulations.

NOTE: 1. *Definitions.*

(a) *Source materials.* As used in the Atomic Energy Act of 1946, the term "source material" means uranium, thorium, or any other material which is determined by the Commission, with the approval of the President, to be peculiarly essential to the production of fissionable materials; but includes ores only if they contain one or more of the foregoing materials in such concentration as the Commission may by regulation determine from time to time. On March 17, 1947, in the regulations cited, the Atomic Energy Commission defined "source material" to mean any material, except fissionable material, which contains by weight one-twentieth of one percent (0.05%) or more of (1) uranium, (2) thorium, or (3) any combination thereof.

(b) *Facilities for the production of fissionable material.* As defined in the Atomic Energy Act of 1946, the term "facilities for the production of fissionable material" is to be construed to mean (1) any equipment or device capable of such production and (2) any important component part especially designed for such equipment or devices as determined by the Commission. Such facilities are classified as either Class I or Class II facilities in the regulations cited and are listed therein as follows:

Class I facilities. Any facility (other than a Class II facility) capable of producing any fissionable material, such as (1) nuclear reactors or piles, (2) facilities capable of the separation of isotopes of uranium, and (3) electronuclear machines (e. g., cyclotrons, synchrocyclotrons and linear ion accelerators) capable of imparting energies in excess of 1 Mev each to positively charge nuclear particles or ions. (The term "electronuclear machines" does not include x-ray generators.)

Class II facilities. (1) Radiation detection instruments, and their major components, designed, or capable of being adapted, for detection or measurement of nuclear radiations, such as alpha and beta particles, gamma radiation, neutron and protons, including the following:

(i) Geiger Mueller, proportional, or parallel plate counter scalers.

(ii) Geiger Mueller or proportional counter rate meters.

(iii) Scalers (adaptable to radiation detection).

(iv) Geiger Mueller and proportional detectors, audio or mechanical.

(v) Integrating ionization chamber meters and ionization chamber rate meters.

(vi) Geiger Mueller, proportional, or parallel plate counter, detector components.

(vii) Electrometer tube circuits and dynamic condenser electrometers (vibrating reed, vibrating diaphragm, etc.) capable of measuring currents of less than 1 micromicroampere.

(viii) Counter pulse rate meters.

(ix) Amplifiers designed for application in nuclear measurements, including linear amplifiers, preamplifiers and distributed (chain) amplifiers.

(x) Geiger Mueller quenching units.

(xi) Geiger Mueller or proportional coincidence units.

(xii) Dosimeters and electrometers, pocket and survey types, including electroscopes incorporating radiation measurement scales.

(xiii) Chambers, pocket type, with electrometer charger-reader.

(xiv) Electrometer tubes designed to operate with grid currents of less than 0.1 micromicroampere.

(xv) Resistors, values above 1,000 megohms.

(xvi) Scintillation counters incorporating a photomultiplier tube.

(xvii) Photomultiplier tubes having photocathode sensitivity of 10 or more microamperes per lumen, and an average amplification greater than 10^5

(2) Mass spectrometers and mass spectrographs, of all mass ranges, and their major components, including the following:

(i) Leak detectors, mass spectrometer, light gas type.

(ii) Mass spectrometers or mass spectrographs.

(iii) Ion sources, mass spectrometer or spectrograph type.

(iv) Acceleration and focusing tubes, mass spectrometer and spectrograph types.

(v) Ionization chambers, mass spectrometer detector types.

(vi) Micromicroammeters capable of measuring current of less than 1.0 micromicroampere.

(vii) Electrometer tubes designed to operate with grid currents of less than 0.1 micromicroampere.

(viii) Resistors, values above 1,000 megohms.

(3) Vacuum diffusion pumps 12 inches diameter and larger (diameter measured inside the barrel at the inlet jet).

(4) Electronuclear machines, and their basic component parts, capable, with or without modification, of sustaining potential differences in excess of 100,000 volts against the discharging action of positive ion currents in excess of 10^7 amperes, such as belt-type electrostatic generators (Van der Graaf machines).

EXEMPTIONS: The listing above of electrometer-type electronic tubes and resistors does not constitute such items component parts of radiation detection equipment or mass spectrometers when they have been actually incorporated into (or packaged as spares for shipment with) instruments (such as, but not limited to pH meters, spectrophotometers, moisture meters, and kilovoltmeters) not capable of detection or measurement of nuclear radiation or not capable of use as mass spectrometers.

2. *License applications.* Applications for license to export source materials and facilities for the production of fissionable material should be made directly to the United States Atomic Energy Commission in the manner prescribed in the regulations cited. Copies of the regulations, together with forms and instructions for making licence applications, may be obtained from the following address:

U. S. Atomic Energy Commission,
Attention: Licensing Controls Branch,
Washington 25, D. C.

(e) *Vessels.* The export of vessels which are owned by citizens of the United States, regardless of size or type, is subject to the approval of the U. S. Maritime Administration under the authority of sections 9 and 37 of the United States Shipping Act of 1916, as amended (46 U. S. C. 808 and 836; 46 CFR Part 221) However, for vessels of war, as defined in Presidential Proclamation 2776, and regulations issued thereunder by the Secretary of State (see paragraph (a) of this section) export authorization must be obtained from both the State Department and the Maritime Administration.

(f) *Natural gas.* The provisions of the Natural Gas Act of 1938 (52 Stat. 822; 15 U. S. C. 717b) and of Executive Order No. 8202, dated July 13, 1939 (4 F. R. 3243, 3 CFR 1943 Cum. Supp.) and the regulations heretofore or hereafter promulgated by the Federal Power Commission pursuant to said act and Executive order (18 CFR Part 153) shall govern the exportation of "natural gas" as defined in said act, and the construction, operation, maintenance or connection of facilities for such exportation at the United States side of international boundaries.

This amendment shall become effective as of July 23, 1953.

(Sec. 3, 63 Stat. 7; 65 Stat. 43; 67 Stat. 62; 50 U. S. C. App. Sup. 2033. E. O. 9630, Sept. 27, 1945, 10 F. R. 12245, 3 CFR, 1945 Supp., E. O. 9919, Jan. 3, 1948, 13 F. R. 59, 3 CFR, 1948 Supp.)

KARL L. ANDERSON,
Acting Director,
Office of International Trade.

[F. R. Doc. 53-6536; Filed, July 22, 1953; 8:56 a. m.]

TITLE 16—COMMERCIAL PRACTICES

Chapter —Federal Trade Commission

[Docket 6061]

PART 3—DIGEST OF CEASE AND DESIST ORDERS

JACOBS MANUFACTURING CO.

Subpart—*Discriminating in price under section 2, Clayton Act as amended*—Price discrimination under 2 (a) § 3.725 *Cumulative quantity discounts and schedules.* In the sale of industrial chucks, parts, and accessories therefor of like grade and quality, directly or indirectly discriminating in price between purchasers, who are manufacturers of motor driven, hand or portable tools, or light power driven machinery within the United States, and places subject to the jurisdiction of the United States where either or any of the purchases involved in such discrimination are in said commerce, by selling said products to any of said purchasers at prices which are higher than the prices at which said products are sold by respondent to any other of said purchasers, and where any such sale is made in competition with one or more sellers of said products; prohibited.

(Sec. 6, 38 Stat. 722; 15 U. S. C. 46. Interprets or applies sec. 2, 49 Stat. 1526; 15 U. S. C. 13) [Cease and desist order, Jacobs Manufacturing Company, West Hartford, Conn., Docket 6061, June 24, 1953]

This proceeding was instituted by complaint which charged respondent with discriminating in price between different purchasers of commodities of like grade and quality in violation of the provisions of subsection (a) of section 2 of the Clayton Act as amended.

It was disposed of, as announced by the Commission's "Notice", dated June 30, 1953, through the consent settlement procedure provided in Rule V of the Commission's Rules of Practice as follows:

The consent settlement tendered by the parties in this proceeding, a copy of which is served herewith, was accepted by the Commission on June 24, 1953, and ordered entered of record as the Commission's findings as to the facts, conclusion, and order in disposition of this proceeding.

The time for filing report of compliance pursuant to the aforesaid order runs from the date of service hereof.

Said order to cease and desist, thus entered of record, following the findings as to the facts [1] and conclusion,[1] reads as follows:

It is ordered, That the respondent Jacobs Manufacturing Company a corporation, engaged in commerce, as "commerce" is defined in the aforesaid Clayton Act, its officers, representatives, agents and employees, directly or through any corporate or other device, in the sale of industrial chucks, parts, and accessories therefor of like grade and quality, do forthwith cease and desist from directly or indirectly discriminating in price between purchasers, who are manufacturers of motor driven, hand or portable tools, or light power driven machinery within the United States, and places subject to the jurisdiction of the United States where either or any of the purchases involved in such discrimination are in said commerce, by selling said products to any of said purchasers at prices which are higher than the prices at which said products are sold by respondent to any other of said purchasers, and where any such sale is made in competition with one or more sellers of said products.

It is further ordered, That the respondent shall, within sixty (60) days after the service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with this order.

The foregoing consent settlement is hereby accepted by the Federal Trade Commission and entered of record on this the 24th day of June 1953.

Issued: June 30, 1953.

By direction of the Commission.

[SEAL] D. C. DANIEL,
Secretary.

[F. R. Doc. 53-6504; Filed, July 22, 1953; 8:53 a. m.]

[1] Filed as part of the original document.

TITLE 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans' Administration

PART 36—SERVICEMEN'S READJUSTMENT ACT OF 1944

SUBPART B—TITLE V READJUSTMENT ALLOWANCE

OPERATIONS OF READJUSTMENT ALLOWANCE OFFICE, SAN JUAN, PUERTO RICO

REVOCATION

Section 36.5004 is revoked:

§ 36.5004 *Operations of the Readjustment Allowance Office, San Juan, Puerto Rico.* (Instruction 4, Title V, Public Law 346, 78th Congress.) [Revoked.]

[SEAL] H. V STIRLING,
Acting Administrator

[F. R. Doc. 53-6502; Filed, July 22, 1953; 8:52 a. m.]

TITLE 32A—NATIONAL DEFENSE, APPENDIX

Chapter XXI—Office of Rent Stabilization, Economic Stabilization Agency

[Rent Regulation 1, Amdt. 150 to Schedule A]

[Rent Regulation 2, Amdt. 148 to Schedule A]

RR 1—HOUSING

RR 2—ROOMS IN ROOMING HOUSES AND OTHER ESTABLISHMENTS

SCHEDULE A—DEFENSE-RENTAL AREAS

NEW JERSEY

Effective July 23, 1953, Rent Regulation 1 and Rent Regulation 2 are amended so that Item 190 of Schedules A reads as set forth below.

(Sec. 204, 61 Stat. 197, as amended; 50 U. S. C. App. Sup. 1894)

Issued this 20th day of July 1953.

GLENWOOD J. SHERRARD,
Director of Rent Stabilization.

State and name of defense-rental area	Class	County or counties in defense-rental area under regulation	Maximum rent date	Effective date of regulation
New Jersey				
(190) Northeastern New Jersey.	B	In ESSEX COUNTY, the cities of East Orange, Newark, and Orange, the townships of Caldwell, Cedar Grove, Livingston, and Millburn, the towns of Belleville, Bloomfield, Irvington, Montclair, Nutley, West Orange, the boroughs of Caldwell and Verona, and the village of South Orange, and all unincorporated localities; in MIDDLESEX COUNTY, the cities of New Brunswick, Perth Amboy, and South Amboy, the townships of East Brunswick, Madison, Monroe, North Brunswick, Piscataway, Raritan, South Brunswick, and Woodbridge, the boroughs of Carteret, Dunellen, Highland Park, Jamesburg, Metuchen, Middlesex, Sayreville, South Plainfield, and South River, and all unincorporated localities; MONMOUTH COUNTY, except the township of Middletown, the boroughs of Allenhurst, Atlantic Highlands, Avon-by-the-Sea, Brielle, Fair Haven, Farmingdale, Keansburg, Little Silver, Manasquan, Redbank, Seabright, and Shrewsbury, and all incorporated localities in the borough of Allentown and the townships of Howell, Millstone, and Upper Freehold; in SOMERSET COUNTY, the townships of Bridgewater and Franklin, and the boroughs of Bound Brook, Manville, Raritan, Somerville, and South Bound Brook, and all unincorporated localities; in UNION COUNTY, the cities of Elizabeth, Linden, and Rahway, the townships of Cranford, Hillside and Union, the town of Westfield, the boroughs of Garwood, Roselle, and Roselle Park, and all unincorporated localities.	Mar. 1, 1942	July 1, 1942
	C	MONMOUTH COUNTY, except the boroughs of Allenhurst, Allentown, Atlantic Highlands, Avon-by-the-Sea, Brielle, Fair Haven, Farmingdale, Keansburg, Little Silver, Manasquan, Redbank, Roosevelt, Seabright, and Shrewsbury, and the townships of Howell, Middletown, Millstone, and Upper Freehold.	Aug. 1, 1952	Nov. 6, 1952

These amendments decontrol the following based on a resolution submitted under section 204 (j) (3) of the act:

The Borough of Keansburg in Monmouth County, New Jersey, a portion of the Northeastern New Jersey Defense-Rental Area.

[F. R. Doc. 53-6499; Filed, July 22, 1953; 8:51 a. m.]

[Rent Regulation 4, Amdt. 84 to Schedule A]

RR 4—MOTOR COURTS

SCHEDULE A—DEFENSE RENTAL AREAS

NEW JERSEY

Effective July 23, 1953, Rent Regulation 4 is amended so that Item 190 of Schedule A reads as set forth below.

(Sec. 204, 61 Stat. 197, as amended; 50 U. S. C. App. Sup. 1894)

Issued this 20th day of July 1953.

GLENWOOD J. SHERRARD,
Director of Rent Stabilization.

Name of defense-rental area	State	County or counties in defense-rental area under regulation	Maximum rent date	Effective date of regulation
(190) Northeastern New Jersey.	New Jersey....	MONMOUTH COUNTY, except the boroughs of Allenhurst, Allentown, Atlantic Highlands, Avon by the Sea, Brielle, Fair Haven, Farmingdale, Keansburg, Little Silver, Manasquan, Redbank, Roosevelt, Seabright and Shrewsbury, and the townships of Howell, Middletown, Millstone and Upper Freehold.	Aug. 1, 1952	Nov. 0, 1952

This amendment decontrols the following based on a resolution submitted under section 204 (j) (3) of the act:

The Borough of Keansburg in Monmouth County, New Jersey, a portion of the Northeastern New Jersey Defense-Rental Area.

[F. R. Doc. 53-6501; Filed, July 22, 1953; 8:51 a. m.]

TITLE 25—INDIANS

Chapter I—Bureau of Indian Affairs, Department of the Interior

Subchapter R—Leases and Sale of Minerals

PART 186—LEASING OF TRIBAL LANDS FOR MINING

TERM OF LEASES

JULY 17, 1953.

Section 186.10 is hereby amended to read as follows:

§ 186.10 *Term of leases.* Mining leases may be made for a specified term not to exceed ten years from the date of approval by the Secretary of the Interior, or his authorized representative, and as much longer as the substances specified in the lease are produced in paying quantities.

(Secs. 16, 17, 48 Stat. 987, 988, sec. 9, 49 Stat. 1968, sec. 4, 52 Stat. 348; 25 U. S. C. 396d, 476, 477, 509)

ORME LEWIS,
Assistant Secretary of the Interior

[F. R. Doc. 53-6473; Filed, July 22, 1953; 8:46 a. m.]

TITLE 31—MONEY AND FINANCE: TREASURY

Chapter V—Foreign Assets Control, Department of the Treasury

PART 505—REGULATIONS PROHIBITING TRANSACTIONS INVOLVING THE SHIPMENT OF CERTAIN MERCHANDISE BETWEEN FOREIGN COUNTRIES

ULTIMATE SHIPMENTS TO SOVIET BLOC

These regulations, which prohibit persons in this country from purchasing or selling or arranging the purchase or sale of strategic commodities outside the United States for ultimate shipment to the Soviet bloc, are herewith amended. As amended they bring the references in § 505.10 to certain sections in Title 15 of the Code of Federal Regulations into conformity with a new numbering system which is contemporaneously being adopted by the Department of Commerce for those sections.

These regulations supplement the export control laws which provide for control of exports from the United States to the Soviet bloc but which do not prohibit shipments of commodities from foreign countries which are arranged by persons in the United States.

§ 505.10 *Prohibitions.* Except as specifically authorized by the Secretary of the Treasury (or any person, agency, or instrumentality designated by him) by means of regulations, rulings, instructions, licenses, or otherwise, no person within the United States, for his own account or that of another, may purchase or sell or arrange the purchase or sale of any merchandise in any foreign country or obtain from any banking institution a credit or payment in connection therewith if (a) the transaction involves the shipment from any foreign country of any merchandise directly or indirectly to any destination within a country on the attached schedule, and (b) the merchandise is included in the Positive List of Commodities set forth in Part 399 of Title 15 of the Code of Federal Regulations and is identified on that list by the letter "A" in the column headed "Commodity Lists" or is of a type the unauthorized exportation of which from the United States is prohibited by any of the several regulations referred to in § 370.4[1] of Title 15 of the Code.

SCHEDULE

Albania.
Bulgaria.
China (Communist controlled).
Czechoslovakia.
Estonia.
Germany (only those areas under control or administration of the Union of Soviet Socialist Republics or Poland).
Hungary.
Latvia.
Lithuania.
North Korea.
Outer Mongolia.
Poland and Danzig.
Roumania.
Tibet.
Union of Soviet Socialist Republics.

The effective date of this section is June 29, 1953.

§ 505.20 *Definitions.* For definitions of certain terms used in § 505.10, see Subpart C, Part 500, of this chapter.

§ 505.30 *Licenses.* No regulation, ruling, instruction or license authorizes a transaction prohibited by § 505.10 unless the regulation, ruling, instruction or license is issued by the Treasury Department and specifically refers to that section.

§ 505.40 *Records and reports.* For provisions relating to records and reports, see §§ 500.601 and 500.602 of this chapter.

§ 505.50 *Penalties.* For provisions relating to penalties, see § 500.701 of this chapter.

§ 505.60 *Procedures.* For provisions relating to procedures, see §§ 500.801 (b) (2), (3) (4), (5) and (6) 500.803, 500.804, 500.805, 500.806, and 500.807 of this chapter.

(Sec. 5, 40 Stat. 415, as amended; 50 U. S. C. App. 5, E. O. 9193, July 6, 1942, 7 F. R. 5205; 3 CFR, 1943 Cum. Supp. E. O. 9389, Aug. 20, 1943, 13 F. R. 4891; 3 CFR, 1943 Supp.)

[SEAL] G. M. HUMPHREY,
Secretary of the Treasury.

[F. R. Doc. 53-6483; Filed, July 22, 1953; 8:59 a. m.]

[1] See F. R. Doc. 53-6536, *supra*.

TITLE 39—POSTAL SERVICE

Chapter I—Post Office Department

PART 34—CLASSIFICATION AND RATES OF POSTAGE

REVISION OF RATES OF POSTAGE ON CERTAIN FOURTH-CLASS MAIL

Correction

In Federal Register Document 53-5889, appearing at page 3967 of the issue for Wednesday, July 8, 1953, in the table of rates under § 34.76 (d) the rate for "1 and 2 zones" for 57 pounds, now reading "1.45", should read "2.45"

TITLE 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 10448]

PART 9—AERONAUTICAL SERVICES

FREQUENCY STABILITY

In the matter of amendment of §§ 9.172 and 9.446 of the Commission's Rules and Regulations Governing Aeronautical Services.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 15th day of July 1953:

The Commission having under consideration its proposal in the above entitled matter with respect to § 9.172; and

It appearing, That in accordance with the requirements of section 4 (a) of the Administrative Procedure Act, general Notice of Proposed Rule Making in the above entitled matter, which made provision for the submission of written comments by interested parties, was duly published in the FEDERAL REGISTER on April 18, 1953 (18 F. R. 2249) and that the period for the filing of comments has now expired; and

It further appearing, That no comments were filed with respect to the proposed amendment of § 9.446 and the Commission, therefore, on June 24, 1953, adopted an order which finalized the amendment of this section; and

It further appearing, That, with respect to the proposed amendment of § 9.172, the only comment filed was that of Aeronautical Radio, Inc., which favored the proposal but requested that the effective date thereof be deferred for six months from the date of adoption by the Commission which would allow adequate time within which to make the necessary modifications of its numerous transmitters at widespread locations throughout the United States; and

It further appearing, That the request of Aeronautical Radio, Inc. is reasonable; and

It further appearing, That the proposed amendment is issued pursuant to the authority of section 303 (c) (f) and (r) of the Communications Act of 1934, as amended;

It is ordered, That effective January 1, 1954, § 9.172 of Part 9 of the Commission's Rules is amended as shown below.

(Sec. 303, 48 Stat. 1082, as amended; 47 U. S. C. 303)

Released: July 20, 1953.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

Amend § 9.172 to read as follows:

§ 9.172 *Frequency stability.*[1] The carrier frequency of stations in the aeronautical services shall be maintained with the following percentage of the assigned frequency:

(a) All aircraft stations on frequencies above 500 kc	0.01
(b) All ground stations on frequencies above 30,000 kc	0.01
(c) All stations on frequencies of 500 kc. or below	0.02
(d) Aeronautical fixed stations on frequencies from 1605 to 4000 kc. with power of 200 watts and below	0.01
and with power above 200 watts	0.005
(e) Aeronautical fixed stations on frequencies from 4000 to 30,000 kc. with power of 500 watts and below	0.01
and with power above 500 watts	0.003
(f) All other ground stations on frequencies from 1605 to 4000 kc. with power of 200 watts and below	0.01
and with power above 200 watts	0.005
(g) All other ground stations on frequencies from 4000 to 30,000 kc. with power of 500 watts and below	0.01
and with power above 500 watts	0.005

[F. R. Doc. 53-6493; Filed, July 22, 1953; 8:50 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[8 CFR Parts 3, 7]

ELIMINATION OF CERTAIN APPEALS IN BOND CASES

NOTICE OF PROPOSED RULE MAKING

Pursuant to section 4 of the Administrative Procedure Act (60 Stat. 238; 5 U. S. C. 1003) notice is hereby given of the proposed issuance of the following rules relating to the elimination of appeals to the Assistant Commissioner, Inspections and Examinations Division, from adverse decisions of field officers in bond cases. In accordance with subsection (b) of said section 4, interested persons may submit to the Commissioner of Immigration and Naturalization, Room 1060, Temporary Federal Office Building X, Nineteenth and East Capitol Streets NE., Washington 25, D. C., written data, views or arguments (in duplicate) relative to these proposed rules. Such representations may not be presented orally in any manner. All relevant material received within 20 days following the day of publication of this notice will be considered.

PART 3—IMMIGRATION BONDS

Section 3.1 is amended to read as follows:

§ 3.1 *Immigration bonds*—(a) *Acceptable sureties.* In cases other than those in which cash is deposited pursuant to Part 213 of this chapter, the following shall be the only acceptable sureties on a bond furnished in connection with the administration of the Immigration and Nationality Act:

(1) A company holding a certificate from the Secretary of the Treasury under sections 6 to 13 of title 6 of the United States Code as an acceptable surety on Federal bonds;

(2) A surety who deposits United States bonds or notes which are of the class described in section 15 of title 6 of the United States Code and Treasury Department regulations issued pursuant thereto and which are not redeemable within one year from the date on which they are offered for deposit; or

(3) Sureties, who shall be two in number, each of whom shall justify separately in real property which is not exempted from levy and sale upon execution and which is actually valued, over and above all encumbrances, at double the amount of the bond, and each of whom shall, in addition to making such justification, satisfactorily establish to the immigration officer authorized to approve the bond that his net worth, over and above all obligations and liabilities of any kind, secured or unsecured, is equal to double the amount of the bond.

[1] Effective January 1, 1954.

(b) *Approval; extension agreements; consent of surety; collateral security.* Regardless of the section of law or regulations under which a bond is required, district directors and officers in charge are authorized, either directly or through officers or employees designated by them, to approve bonds which are prepared on a form approved by the Commissioner. Such officers are also authorized to approve formal agreements by which a surety consents to an extension of his liability on any such bond and to approve any power of attorney executed on Form I-312 or Form I-313 which purports to authorize the delivery after its release of collateral deposited to secure the performance of any such bond to some person or concern other than the depositor thereof. Unless otherwise specifically provided in this chapter or by the Commissioner in any case or class of cases, bonds prepared on forms approved by the Commissioner, all agreements of extension of liability relating thereto, and all powers of attorney for delivery of collateral security deposited in connection therewith shall be retained at the office of the Service where approved. Bonds prepared on any form other than one approved by the Commissioner, agreements of extension of liability relating thereto, and any powers of attorney to receive back collateral deposited in connection therewith, shall be submitted to the Commissioner for approval. Regardless of the form on which the bond is prepared, any power of attorney not executed on Form I-312 or Form I-313, purporting to authorize the delivery after its release of any deposit of collateral security to some person or concern other than the depositor thereof, shall be forwarded, together with the bond and all appurtenent documents, to the Commissioner for approval. In the same manner, all requests for delivery of collateral security to a person other than the depositor or his approved attorney in fact shall be forwarded to the Commissioner for approval. Instruments and other papers forwarded to the Commissioner under the provisions of this paragraph shall be handled by the General Counsel.

(c) *Violation of conditions; cancellation.* (1) Whenever it shall appear that a condition of a bond executed in connection with the administration of the immigration laws may have been violated, or when a request for release from liability is received from an obligor, the bond, all appurtenant documents, and a full report of the circumstances shall be forwarded to the district director or officer in charge having administrative jurisdiction over the office where the bond is retained for decision as to whether the conditions of the bond have been met so that it may be cancelled, or whether any condition of the bond has been violated so that liability thereunder should be enforced, or whether the circumstances are such that the bond should be continued in effect. If the obligors are adversely affected by the decision of the district director or officer in charge, they

shall be notified by the district director or officer in charge in writing on Form I–323 of his decision. No appeal shall lie from the decision of the district director or officer in charge.

(2) If all the conditions of a bond executed in connection with the administration of the immigration laws have been complied with and the obligation has thereby been discharged by its own terms, the district director or officer in charge shall so notify the obligors on Form I–391. Similar notice may be given if all the conditions of the bond have been complied with and (i) the alien has departed from the United States or, being the sole obligor on the bond or holding an approved power of attorney from the obligor, is about to depart from the United States, (ii) the alien had died, (iii) the alien has been naturalized as a citizen of the United States, (iv) a new bond has been furnished to replace the existing bond, or (v) in the case of a delivery bond, the warrant of arrest or deportation has been cancelled, or the alien's application for suspension of deportation has been approved, or the alien has been imprisoned, or inducted into the armed forces of the United States.

PART 7—ASSISTANT COMMISSIONER: INSPECTIONS AND EXAMINATIONS DIVISION

Paragraph (a) *Appellate jurisdiction*, of § 7.1, *Assistant Commissioner Inspections and Examinations Division*, is amended by deleting subparagraph (1) and by redesignating subparagraphs (2) through (19) as subparagraphs (1) through (18)

(Sec. 103, 66 Stat. 173; 8 U. S. C. 1103)

NOTE: The record-keeping and reporting requirements of these regulations have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

Dated: July 17, 1953.

HERBERT BROWNELL, Jr.,
Attorney General.

Recommended: June 25, 1953.

ARGYLE R. MACKEY,
Commissioner of Immigration and Naturalization.

[F. R. Doc. 53–6515; Filed, July 22, 1953; 8:55 a. m.]

DEPARTMENT OF AGRICULTURE

Production and Marketing Administration

[7 CFR Part 31]

WOOL STANDARDS

OFFICIAL STANDARDS OF THE UNITED STATES FOR GRADES OF WOOL TOP· DISTRIBUTION OF PRACTICAL FORMS OF WOOL TOP STANDARDS AND METHODS FOR DETERMINATION OF CONFORMITY OF WOOL TOP WITH OFFICIAL STANDARDS

Notice is hereby given that the Secretary of Agriculture, pursuant to the authority vested in him by law (sec. 19, 39 Stat. 489, sec. 19, 42 Stat. 1284, secs. 1, 2, 3, 45 Stat. 593, 594, sec. 401 (a) 58 Stat. 738; 7 U. S. C. 257, 415b–415e), proposes to amend the official standards of the United States for grades of wool top (7 CFR 31.101–31.113) and the regulations governing the distribution of practical forms of wool top standards and methods for the determination of conformity of wool top with the official standards (7 CFR 31.151–31.154) in the respects set forth below.

These proposed changes will provide specifications in terms of microns for the five grades, 48's to 36's, inclusive. The present standards for these grades are expressed only by visually classified physical samples. The changes also provide for the addition of a new grade between the existing 56's and 50's grades to be designated as 54's and for minor revisions in fiber distribution requirements for grades 80's to 50's, presently defined on a micron basis. This proposed set of standard requirements for wool top has been developed with the cooperation of the industry.

The official standards of the United States for grades of wool top would be amended to read as follows:

OFFICIAL STANDARDS OF THE UNITED STATES FOR GRADES OF WOOL TOP

Sec.
31.101 Grade 80's wool top.
31.102 Grade 70's wool top.
31.103 Grade 64's wool top.
31.104 Grade 62's wool top.
31.105 Grade 60's wool top.
31.106 Grade 58's wool top.
31.107 Grade 56's wool top.
31.108 Grade 54's wool top.
31.109 Grade 50's wool top.
31.110 Grade 48's wool top.
31.111 Grade 46's wool top.
31.112 Grade 44's wool top.
31.113 Grade 40's wool top.
31.114 Grade 36's wool top.

DISTRIBUTION OF PRACTICAL FORMS OF WOOL TOP STANDARDS AND METHODS FOR THE DETERMINATION OF CONFORMITY OF WOOL TOP WITH THE OFFICIAL STANDARDS

Sec.
31.151 Practical forms; method of obtaining; conditions.
31.152 Cost of practical forms.
31.153 Loaning of practical forms.
31.154 Determination of conformity.

OFFICIAL STANDARDS OF THE UNITED STATES FOR GRADES OF WOOL TOP

§ 31.101 *Grade 80's wool top.* Wool top of grade 80's shall be top the average fiber diameter of which is within the range of 18.1 microns to 19.5 microns, inclusive, and the fiber diameter dispersion of which shall meet the following requirements:

10.0 microns to 25 microns, inclusive: Not less than 91 percent.
25.1 microns and over: Not more than 9 percent.
30.1 microns and over: Not more than 1 percent.

§ 31.102 *Grade 70's wool top.* Wool top of grade 70's shall be top the average fiber diameter of which is within the range of 19.6 microns to 21.0 microns, inclusive, and the fiber diameter dispersion of which shall meet the following requirements:

10.0 microns to 25 microns, inclusive: Not less than 83 percent.
25.1 microns and over: Not more than 17 percent.
30.1 microns and over: Not more than 3 percent.

§ 31.103 *Grade 64's wool top.* Wool top of grade 64's shall be top the average fiber diameter of which is within the range of 21.1 microns to 22.5 microns, inclusive, and the fiber diameter dispersion of which shall meet the following requirements:

10.0 microns to 30 microns, inclusive: Not less than 92 percent.
30.1 microns and over: Not more than 8 percent.
40.1 microns and over. Not more than 1 percent.

§ 31.104 *Grade 62's wool top.* Wool top of grade 62's shall be top the average fiber diameter of which is within the range of 22.6 microns to 24.0 microns, inclusive, and the fiber diameter dispersion of which shall meet the following requirements:

10.0 microns to 30 microns, inclusive: Not less than 86 percent.
30.1 microns and over: Not more than 14 percent.
40.1 microns and over: Not more than 1 percent.

§ 31.105 *Grade 60's wool top.* Wool top of grade 60's shall be top the average fiber diameter of which is within the range of 24.1 microns to 25.5 microns, inclusive, and the fiber diameter dispersion of which shall meet the following requirements:

10.0 microns to 30 microns, inclusive: Not less than 80 percent.
30.1 microns and over: Not more than 20 percent.
40.1 microns and over: Not more than 2 percent.

§ 31.106 *Grade 58's wool top.* Wool top of grade 58's shall be top the average fiber diameter of which is within the range of 25.6 microns to 27.0 microns, inclusive, and the fiber diameter dispersion of which shall meet the following requirements:

10.0 microns to 30 microns, inclusive: Not less than 72 percent.
30.1 microns and over: Not more than 28 percent.
50.1 microns and over: Not more than 1 percent.

§ 31.107 *Grade 56's wool top.* Wool top of grade 56's shall be top the average fiber diameter of which is within the range of 27.1 microns to 28.5 microns, inclusive, and the fiber diameter dispersion of which shall meet the following requirements:

10.0 microns to 30 microns, inclusive: Not less than 62 percent.
30.1 microns and over: Not more than 38 percent.
50.1 microns and over: Not more than 1 percent.

§ 31.108 *Grade 54's wool top.* Wool top of grade 54's shall be top the average fiber diameter of which is within the range of 28.6 microns to 30.0 microns, inclusive, and the fiber diameter dispersion of which shall meet the following requirements:

10.0 microns to 30 microns, inclusive: Not less than 54 percent.
30.1 microns and over: Not more than 46 percent.
50.1 microns and over: Not more than 2 percent.

§ 31.109 *Grade 50's wool top.* Wool top of grade 50's shall be top the average fiber diameter of which is within the range of 30.1 microns to 31.7 microns, inclusive, and the fiber diameter dispersion of which shall meet the following requirements:

10.0 microns to 30 microns, inclusive: Not less than 44 percent.
30.1 microns and over: Not more than 56 percent.
50.1 microns and over: Not more than 2 percent.

§ 31.110 *Grade 48's wool top.* Wool top of grade 48's shall be top the average fiber diameter of which is within the range of 31.8 microns to 33.4 microns, inclusive, and the fiber diameter dispersion of which shall meet the following requirements:

10.0 microns to 40 microns, inclusive: Not less than 75 percent.
40.1 microns and over: Not more than 25 percent.
60.1 microns and over: Not more than 1 percent.

§ 31.111 *Grade 46's wool top.* Wool top of grade 46's shall be top the average fiber diameter of which is within the range of 33.5 microns to 35.1 microns, inclusive, and the fiber diameter dispersion of which shall meet the following requirements:

10.0 microns to 40 microns, inclusive: Not less than 68 percent.
40.1 microns and over: Not more than 32 percent.
60.1 microns and over: Not more than 1 percent.

§ 31.112 *Grade 44's wool top.* Wool top of grade 44's shall be top the average fiber diameter of which is within the range of 35.2 microns to 37.0 microns, inclusive, and the fiber diameter dispersion of which shall meet the following requirements:

10.0 microns to 40 microns, inclusive: Not less than 62 percent.
40.1 microns and over: Not more than 38 percent.
60.1 microns and over: Not more than 2 percent.

§ 31.113 *Grade 40's wool top.* Wool top of grade 40's shall be top the average fiber diameter of which is within the range of 37.1 microns to 38.9 microns, inclusive, and the fiber diameter dispersion of which shall meet the following requirements:

10.0 microns to 40 microns, inclusive: Not less than 54 percent.
40.1 microns and over: Not more than 46 percent.
60.1 microns and over: Not more than 3 percent.

§ 31.114 *Grade 36's wool top.* Wool top of grade 36's shall be top the average fiber diameter of which is within the range of 39.0 microns to 41.2 microns, inclusive, and the fiber diameter dispersion of which shall meet the following requirements:

10.0 microns to 40 microns, inclusive: Not less than 44 percent.
40.1 microns and over: Not more than 56 percent.
60.1 microns and over: Not more than 4 percent.

The regulations governing the distribution of practical forms of wool top standards and methods for the determination of conformity of wool top with the official standards would be amended to read as follows:

DISTRIBUTION OF PRACTICAL FORMS OF WOOL TOP STANDARDS AND METHODS FOR THE DETERMINATION OF CONFORMITY OF WOOL TOP WITH THE OFFICIAL STANDARDS

§ 31.151 *Practical forms; method of obtaining; conditions.* (a) Practical forms of the official standards of the United States for grades of wool top, namely:

Sets: Grades 80's to 36's, inclusive, complete series, mounted specimens.
Demonstrator types: Grades 80's to 36's, inclusive, individually packaged.
Balls: 80's to 58's, inclusive, individual, approximately 10 pounds in weight, when available.

certified under the signature of the Administrator of the Production and Marketing Administration or other official duly authorized by him, will be furnished, subject to the other conditions of this section, upon filing of an approved application and prepayment of costs thereof as fixed by § 31.152.

(b) Each application for practical forms of the official wool top standards shall be upon a blank furnished or approved by the Production and Marketing Administration, shall be signed by the applicant, and shall be accompanied by certified check, draft, post office money order, or express money order, payable to the "Treasurer of the United States," in an amount to cover the cost of the forms requested, and shall incorporate the following conditions:

(1) That no practical form of the official wool top standards shall be considered or used as representing such standards after cancellation in accordance with this section, or after any subsequent revision of such standards.

(2) That the said practical forms shall be subject to inspection on any business day, between the hours of 9 a. m. and 4 p. m., by the Secretary or by any duly authorized officer or agent of the Department of Agriculture.

(3) That the certificate covering any practical form may be revoked and canceled if it is found upon such inspection that the said practical form is not representative of the official standards.

§ 31.152 *Cost of practical forms—* (a) *Sets.* $20.00 each, f. o. b. shipping point.

(b) *Demonstrator types.* $2.00 each, delivered to destination within the continental United States.

(c) *Balls.* $40.00 each, f. o. b. shipping point.

§ 31.153 *Loaning of practical forms.* In the discretion of the Administrator of the Production and Marketing Administration, limited numbers of the practical forms of the official standards of the United States for grades of wool tops, or samples or exhibits illustrating such standards, may be loaned to governmental agencies or to educational and other institutions or organizations for demonstration purposes.

§ 31.154 *Determination of conformity.* The determination of conformity of wool top with the official standards of the United States for grades of wool top shall be made in accordance with methods prescribed by the Administrator of the Production and Marketing Administration.

Any person who desires to submit written data, views, or arguments concerning the proposed amendments may do so by filing them with the Director of the Livestock Branch, Production and Marketing Administration, United States Department of Agriculture, Washington 25, D. C., within 120 days after the date of publication of this notice in the FEDERAL REGISTER.

(Sec. 19, 39 Stat. 489, sec. 19, 42 Stat. 1264, secs. 1, 2, 3, 45 Stat. 593, 594, sec. 401 (a), 58 Stat. 738; 7 U. S. C. 257, 415b–415e)

Done at Washington, D. C., this 20th day of July 1953.

[SEAL] J. EARL COKE,
Acting Secretary of Agriculture.

[F. R. Doc. 53-6512; Filed, July 22, 1953; 8:55 a. m.]

[7 CFR Part 915]

[Docket AO-246]

HANDLING OF OLIVES GROWN IN CALIFORNIA OR ARIZONA

NOTICE OF RECOMMENDED DECISION AND OPPORTUNITY TO FILE WRITTEN EXCEPTIONS WITH RESPECT TO A PROPOSED MARKETING AGREEMENT AND ORDER

Pursuant to the rules of practice and procedure, as amended, covering proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900) notice is hereby given of the filing with the Hearing Clerk of this recommended decision of the Assistant Administrator, Production and Marketing Administration, United States Department of Agriculture with respect to a proposed marketing agreement and order regulating the handling of olives grown in the State of California or in the State of Arizona. Such marketing agreement and order would be effective pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.), hereinafter referred to as the act. Interested parties may file exceptions to this recommended decision with the Hearing Clerk, United States Department of Agriculture, Room 1353, South Building, Washington 25, D. C., not later than the close of business on the 15th day after publication hereof in the FEDERAL REGISTER. Exceptions should be filed in quadruplicate.

Preliminary statement. A public hearing, on the record of which the proposed marketing agreement and marketing order (hereinafter called the "order") were formulated, was held at Stockton, California, from May 6 to 9, 1953, both dates inclusive, and from May 11 to May 14, 1953, both dates inclusive. Such hearing was held pursuant to a notice thereof which was published in the FEDERAL REGISTER (18 F. R. 2176) on April 17, 1953. Said notice contained a draft

of a proposed marketing agreement and order which had been presented to the Secretary of Agriculture (hereinafter called the "Secretary") by the Olive Growers Committee for a Federal Marketing Order with a request for a hearing thereon.

Material issues. The material issues presented on the record of the hearing are as follows:

(1) The right to regulate the handling of olives shipped to intrastate destinations, as well as those shipped in interstate commerce;

(2) The need for the regulatory order to accomplish the declared objectives of the act;

(3) The specific terms and provisions which should be incorporated in any order made effective such as those providing for:

(a) The definitions of such terms as "Secretary," "Act," "person," "area," "olives," "variety group 1," "variety group 2," "natural condition olives," "canning olives," "canned olives," "can," "size," "size-grade," "acquire," "ship," "handle," "handler," "canner," "producer," "committee," "council," "canning quota," "No. 1 Tall can," "case," "crop year," "part and sub-part," and "district".

(b) The establishment and maintenance of a District Olive Advisory Council for each district to nominate producer members and alternate members of an administrative agency and to perform other duties;

(c) The establishment and maintenance of an administrative agency, to be known as the Olive Administrative Committee (hereinafter called the "committee") for conducting order operations, the powers and duties of such committee, and its manner of doing business;

(d) The formulation and adoption of a marketing policy for each crop year;

(e) The issuance of regulations limiting the canning of olives grown in the producing area, and the manner of certification of canning olives and the issuance of a canning quota;

(f) The issuance of regulations limiting the shipping of canned olives;

(g) The keeping of records and filing of reports by handlers, and the verification of such reports;

(h) The incurring of expenses by the committee and councils and the levying of assessments;

(i) Additional terms and conditions as set forth in §§ 915.71 through 915.80 and 915.84 and published in the FEDERAL REGISTER (18 F. R. 2176) on April 17, 1953, which are generally common to marketing agreements and orders namely, personal liability, separability, derogation, duration of immunities, agents, effective time, suspension or termination, proceedings after termination, effect of termination or amendment, amendments, and right of the Secretary, and certain other terms and conditions as set forth in §§ 915.85 through 915.87 and also published in the said issue of the FEDERAL REGISTER, which are generally common to marketing agreements only, namely, counterparts, additional parties, and order with marketing agreement.

Findings and conclusions. The findings and conclusions relating to the material issues are based upon the evidence introduced at the hearing and the record thereof and are as follows:

(1) Practically all olives produced in the United States are grown in the State of California. During the period 1947 to 1951, an average of about 45 percent of all of the olives grown in the State of California were canned as ripe or green-ripe fruit (hereinafter called "canned olives") Practically all of the ripe and green-ripe olives canned in the United States are consumed in this country, and imports and exports are negligible.

Prior to harvesting it is not known whether the olives will be harvested for marketing within the State or in markets without the State. Olives grown in the State of California in the different districts move freely from one district of the State to another. At the time the olives are size-graded for canning purposes the ultimate destination of such fruit generally is unknown. Canners usually do not know in which market canned fruit will be sold when it is accepted for canning. Canners often sell canned fruit to wholesale grocers in the State of California and some of this fruit is later sold in interstate markets by the wholesale grocer without the knowledge of the canner. Canned olives destined to markets within the State of California or outside of the State of California are so inextricably intermingled in growing, processing, canning and selling that it is difficult to achieve the objective of the proposed program without extending regulations to canned olives shipped to both interstate and intrastate markets.

During the 1951–52 season approximately 34 percent of the canned olives produced in the State of California were sold in that State. The market within the State of California is therefore an important part of the total market for California canned olives. If shipments to approximately one-third of the total market were not regulated, while at the same time regulations were extended to the balance of the market, a burden would be placed on the regulatory program which would be most difficult to overcome. An unregulated intrastate market would not only tend to cause a disorderly marketing condition within the State of California but would result in lower prices being received for canned olives marketed in interstate commerce because there would be a tendency on the part of purchasers outside of California to insist on purchasing olive supplies at approximately those prices at which fruit was being offered within the State. Therefore, if shipments to intrastate markets were regulated such regulations would result in better returns to growers for canned olives shipped to intrastate markets and should also improve the returns from interstate markets.

A definite relationship exists between the prices received for canned olives marketed within the State of California and such fruit marketed in the interstate markets. The market for olives is broad and not limited to any sectional part of the United States. Generally, no handler supplies any single segment of the market to the exclusion of every other handler. Therefore, all canned olives are in competition with all other canned olives. Canners generally sell olives at the same f. o. b. price regardless of whether the destination of such olives is within the State of California or in interstate markets. In these circumstances, it is found that the intrastate handling of olives directly burdens, obstructs and affects the interstate and foreign handling of such fruit.

(2) The season average price received for olives for canning by California producers during the 1951–52 season was $262 per ton or 83 percent of the parity price for such fruit. The preliminary price reported for such fruit for the 1952–53 season was $149 per ton or 49 percent of the parity price.

Olives grown in the State of California may be utilized in many forms. Some of the more important outlets are canned olives, Spanish green style, Greek style, Sicilian style, and olive oil. Some olives, principally of the Barouni variety, are shipped to markets in fresh form. In general, the larger and medium sized olives are desired for the important canning market and the smaller sized fruit is crushed for oil. Principal varieties grown are Mission, Manzanillo, Sevillano and Ascolano. All four of these varieties are suitable for canning. However, the latter two varieties are generally not suitable for oil. The Mission and Manzanillo varieties are harvested at a later stage for oil than they are for canning. Crushing for oil is a major outlet for the Mission variety. The Sevillano and Ascolano varieties are often referred to as large-fruited varieties, and the Mission and Manzanillo as medium-to-small-fruited varieties.

The market for olives for canning is generally the preferred market. Returns to growers for fruit of canning size usually exceed returns which would be received for such fruit sold for other utilization. Testimony indicates that about 60 percent of the olive crop produced each year is suitable for canning but that, on the average during the period 1947–51, only 45 percent had been canned. About 52 percent of the large crop produced in the 1951–52 season was canned resulting in a pack of 2,226,000 cases, basis 48 No. 1 tall cans per case. Such record-large pack, plus a carryover of 149,000 cases from the previous season, made a total supply of 2,375,000 cases available for disposition during the year beginning December 1, 1951. Shipments during that year were record-large with 1,706,000 cases being distributed at declining prices to growers and canners. However, carryover from the 1951–52 season was record-large at 669,000 cases.

The 1952–53 crop was likewise large and the pack from that crop is estimated at 1,843,000 cases. It is calculated, by using a conversion factor of 70 cases per ton, that approximately 26,300 tons, or 46 percent, of the 1952–53 crop of 57,000 tons, were canned. This supply, plus the carrying of 669,000 cases, resulted in a total record-large supply of 2,512,000 cases available for sale in the year beginning December 1, 1952. Although sales of canned olives are estimated to be larger this year than last year, it appears that the carryover on December 1, 1953,

should exceed 500,000 cases. Furthermore, sales of canned olives are currently being made by canners at prices which return little or nothing to the growers for the least preferred canning sizes of olives. Although average sales of canned olives have increased more than 10 percent each year over the previous year during the past 4 seasons, grower returns and prices to canners have declined during that period, with the lowest prices being received in the year of greatest sales. Such reduced grower returns with a large volume of sales are significant especially in view of the increase in consumer income during this period. Sales of canned olives and the prices at which such sales are made by canners have a direct effect on the prices growers receive for olives for canning. Prices at which canners sell are determined largely by shipments of canned olives and by the supply of such fruit available for shipment either in the canned form or in process for canning.

Prices which canners pay to growers for olives for canning are those which canners believe they can pay and operate at a satisfactory margin of profit in view of the supply of fruit available for marketing as canned olives and the demand in the markets for canned fruit. The carryover of canned fruit or fruit in process for canning from one season to the next season is an important factor in establishing prices to growers for fruit for canning produced in the latter season. A large carryover tends to result in demoralized marketing conditions in a year when the crop is normal or above normal, and, under such conditions, grower returns are reduced more than proportionately in relation to the increased supply. Likewise, the size of the new crop is an important factor in establishing grower prices.

Growers would be in a better bargaining position in selling olives for canning if a method of control, which would make available to canners only that portion of the olive production each year which would be purchased for canning at grower prices which tend to approach the parity price for such fruit, were available. Olives which were diverted from the canning outlet could be utilized in the production of olive oil and such styles of olives as Spanish, Greek, and Sicilian. Diversion to such outlets should have no more than a negligible effect on the price levels received by growers from fruit utilized in such channels, because most of the supplies of olive oil and Spanish green olives consumed in this country are imported and the markets are established by imported fruit and the imported oil. In contrast, reduction of supplies of olives sold for canning results in a significant increase in prices to producers for such olives for canning. Therefore, the diversion of moderate quantities of olives from canning into such other outlets would result in improved returns to growers for that portion of the crop sold for ripe and green-ripe canning. In view of the foregoing, it is concluded that, in seasons when supplies of canning olives are burdensome, the supply of California olives available for canning may be restricted under the program to a volume which conforms more nearly to commercial requirements. The proposed program provides a means to eliminate some of the basic causes of instability in the olive industry and to improve returns to growers by establishing orderly marketing conditions for olives for canning and for canned olives.

Several witnesses contended that the proposed marketing agreement and order were not needed because, among other things, (1) carryovers of canned olives from one season to the next are usually not large, (2) growers generally have averaged over a period of years more than 100 percent of the parity price for olives sold for canning, (3) sales of canned olives are increasing in volume each year, and (4) a light crop is expected in the 1953–54 season. These arguments are outweighed by the facts that (1) the carryover into the 1953–54 season appears certain to be large, (2) returns to growers during the 1952–53 season to date were only 49 percent of parity, (3) returns to growers have been reduced as sales have increased, and (4) the proposed program is permissive and regulations need not be recommended and would not be issued under it in a particular year if they are not needed. The proposed program would afford the olive industry an opportunity to achieve orderly marketing conditions.

In view of the foregoing, it is concluded that a marketing agreement and order providing for volume regulations for olives grown in the State of California are needed to effectuate the declared policy of the act.

(3) (a) The definition of "Secretary" should include the Secretary of Agriculture of the United States and, because it is virtually impossible for him to perform personally all of the functions and duties vested in him by law, any other officer or employee of the United States Department of Agriculture who is, or who may hereafter be, authorized to perform the duties of the Secretary.

The definition of "act" sets forth the laws and the legal citations thereof pursuant to which orders of this nature are put into effect and operated.

The definition of "person" follows the definition of that term as set forth in the act.

The definition of "area" should include the State of California. Practically all of the olives grown and canned in the United States are grown and canned in the State of California. Large quantities of olives grown in one district of the State are canned in other districts and, therefore, the issuance of several marketing agreements and orders applicable to the different districts would be impracticable. Olives from all districts within the State are marketed in the same markets and hence are competitive. The producers have the same problems in common and grow the same varieties of olives throughout the State. Therefore, there are no differences in the production or marketing in the different portions of the State which would require different terms for different portions of the State. Olives are produced in more than 25 of the counties in the State of California. The remaining counties are scattered throughout the State and should be covered by the order. Otherwise, handlers could operate in one or more of such counties and escape regulations.

The proposed program, upon which the hearing was held, included the State of Arizona in the area covered by it. Testimony at the hearing, however, showed that the production of olives in Arizona is small and that the trend in production in that State at the present time is downward. Less than 100 acres are planted to olives in that State and the total pack of canned olives in the State of Arizona is less than one-half of 1 percent of the total pack of such fruit in the State of California. A witness contended that Mexico produced olives which may be canned as ripe olives and imported into the United States. However, evidence was not introduced in the record to demonstrate how such importations would make the order ineffective. Furthermore, the act does not include Mexico within its scope. In view of the foregoing, it is concluded that the State of California constitutes the smallest production area practicable for coverage by the proposed marketing agreement and order and for carrying out the declared policy of the act.

The term "olives" is defined to include all olives grown within the area. It is necessary to identify olives because the handling of this commodity is to be regulated under the order.

The terms "Variety Group 1" and "Variety Group 2" should be defined by listing all the known varieties of olives grown in the State of California and dividing such varieties into 2 groups, because different shipping regulations may be issued for each group, and because of differences in sizes of fruit. Variety Group I includes varieties commonly referred to as large fruited olives, two of the principal varieties of which are Sevillano and Ascolano. Olives in Variety Group 1 have similar characteristics. Olives in Variety Group 2 are medium and small fruited varieties. The principal varieties in this group are Mission and Manzanillo, and olives in Variety Group 2 have similar characteristics.

The term "natural condition olives" should be defined to identify all olives in their fresh harvested state prior to being placed in water or any curing or preserving solution including but not limited to acid, alkaline or salt solutions, or agents. The term does not include olives while they are still attached to the tree but is meant to apply to olives from the time they are picked to the time they are no longer in their fresh harvested natural condition state. The definition of this term is necessary under the proposed program as handlers who desire to obtain canning quotas during periods when canning regulations are in effect must apply for such quotas while the fruit is in a natural condition state.

The term "canning olives" should be defined to identify natural condition olives which are acquired by handlers as olives suitable for canning. Processing methods for canning olives vary widely and a canner may require a certain quality peculiar to his own method and

formula for canning. One canner may decide that a lot of olives is not of a quality that is suitable for canning purposes which another canner may accept for canning. Therefore, a determination of quality must be left to the individual canner and any quality which he accepts from a grower as being suitable for canning should be considered canning olives. The quantity of canning olives must be determined under the program to compute a canner's canning quota. The hearing notice included a proposal that the term "canning quality olives" be defined. Inasmuch as the determination of quality is to be made by the canner under the proposal and such determination is not regulated, the word quality has been deleted from the term.

The term "canned olives" should be defined to distinguish canned ripe and canned green-ripe olives from olives prepared for consumption in any other fashion. Canned ripe and green-ripe olives are those which have been placed in hermetically sealed containers and heat sterilized under pressure. It is necessary to define canned olives because shipping limitations established under the proposed program would apply to such fruit. The term should include canned olives which have not been divided into more than 4 parts exclusive of pits because such olives may be substituted for canned whole or canned pitted olives for some purposes. The term does not include canned chopped olives because they generally are not substituted for canned whole or canned pitted olives.

The term "can" olives means to convert olives or to cause them to be converted into canned olives for commercial purposes. This term should be defined since the canning of olives is one of the handling acts which may be regulated under the marketing agreement and order. The term should include all canning of olives which is done on a commercial scale. If olives are canned for the purpose of selling them, they are canned on a commercial scale. Canned olives cannot be sold under the laws of the State of California unless they have been sterilized under the supervision of that State. If "home canning" is done under the supervision of the State of California and for the purpose of selling such olives, such canning is a commercial operation and should be included in the definition, because such fruit is directly competitive with other canned olives in commercial channels.

The term "size" should be defined to mean the number of whole olives contained in a pound. Such a term is in common use by the industry to indicate the classification of olives by separate sizes.

The term "size-grade" means to classify olives or to cause them to be classified into separate size designations. This term should be defined for the reason that a handler must size-grade olives to obtain a canning quota under the proposed program. It is the customary practice of the industry to classify olives into lots in which the individual olives are reasonably uniform in size. This act is known as "size-grading" There are two general methods of size-grading. In one method the olives are delivered to a size-grading station where a standard size-grader separates the fruit by sizes. In the other method a sample of the fruit is size-graded and the proportion of each size of the lot from which the sample was taken is calculated from the sample. Size designations should be established by the Olive Administrative Committee with the approval of the Secretary inasmuch as it may be desirable to define more exactly some of the size designations now used by the industry or to change some size designations from time to time with changed conditions in marketing canned olives. It is intended, however, that the size designations established conform as closely as possible to the standard practices of the olive industry.

The term "acquire" should be defined to mean obtaining physical possession of natural condition olives which have been harvested or to have physical possession of such olives. The definition of this term is necessary because a handler must acquire natural condition olives before he can obtain a canning quota.

The term "ship" should be defined to identify those operations which would make a person a handler of canned olives and thereby subject him to the proposed marketing agreement and order. Such operations should include the moving, or the causing of such movement, of canned olives from the cannery. Such movement should constitute shipment irrespective of the ultimate destination or end use of the canned olives. However, the term should be limited by particular exceptions in order to make its applicability specific and to simplify administration of the order. The movement by a common carrier or a contract carrier of canned olives owned by another person should not constitute handling since such carriers have no proprietary interest in the commodity. Shipment should exclude also the movement of canned olives from the cannery to a place of storage within the area for the purpose of storage if the committee has first been advised of such movement because such movement would be necessary for some canners to operate their business efficiently. However, the term should include the movement of canned olives from storage into which such canned fruit has been moved by a handler who has advised the committee of such movement since to except the movement from storage of such fruit would exempt it from the restrictions of the marketing agreement and order. The limitation on the shipment of canned olives, therefore, would apply at the point of movement from the cannery or, if canned olives had been moved to storage within the area under the exception set forth above, at the point of movement from such storage.

The term "handle" should be defined to identify all these operations which would make a person a handler and thereby subject him to regulations under the proposed program. Such a term is defined in terms of three other definitions which are included in the order for the reasons stated hereinbefore. Handle should include (a) the size-grading of olives, (b) the canning of olives, and (c) the shipping of canned olives.

The size-grading of olives is regulated under the provisions of the order only insofar as size-grading is performed on those olives which a handler desires to have included in computing a canning quota. A handler may size-grade olives for other uses without being restricted under the marketing agreement and order.

The situation is somewhat different, however, in respect to canning olives. It is intended that the regulations apply to all canning of olives within the area or outside the area as canning is defined in the program. A person may can olives outside the area only if he has first obtained within the area a canning quota covering such olives. Olives grown in California generally are not canned outside the area. A canning quota must be obtained within the area because certification of canning olives is made under the supervision of the committee, or an agency designated by it, and the committee should not be expected to maintain such supervision at points outside the area, because such activities would require an unnecessarily cumbersome administrative staff.

The term "handler" should be defined to identify those persons who handle olives, as described in the definition of handle, because such persons are subject to regulations under the proposed marketing agreement and order.

The term "canner" means any handler who cans olives, or who causes olives to be canned for him. The term should be defined because it is used to indicate a particular type of handler to whom regulations apply.

The term "producer" should be defined to mean any person engaged in a proprietary capacity in the growing of olives. A definition of such term is necessary so that a determination may be made as to who should be eligible to vote for nominees for members of the District Olive Advisory Councils. It is intended that this term include all growers regardless of the number or variety of olive trees. The term producer, however, should not include someone who is engaged in the production of olives on behalf of someone else, such as a day laborer or a person who irrigates or drives a tractor.

The term "council" should be defined to mean a District Olive Advisory Council and the term "committee" to mean the Olive Administrative Committee established as the agencies to administer the marketing agreement and order.

The term "canning quota" should be defined to identify the number of cases of whole canned ripe or green-ripe olives, or the equivalent in other than the whole form such as pitted or sliced olives, which a handler is permitted to can from olives harvested during any crop year pursuant to order restrictions.

The hearing notice included a proposal that the term "ton" be defined. This term need not be defined because it is not used elsewhere in the proposal, although the term "tonnage" is so used.

The term "No. 1 tall can" should be defined since this is the type of can that

is commonly used in the industry and is the can on which most of the data available to the industry is based. Likewise the term "case" is defined to mean 48 No. 1 tall cans for the same reasons. Authority should be provided for the committee to establish conversion factors, with the approval of the Secretary, for use in calculating the quantity in terms of cases of 48 No. 1 tall cans of olives which have been canned in other than No. 1 tall cans.

The term "crop year" should be defined to identify a period during which most of a season's olives are harvested and marketed. Most of the olives for canning are harvested during the months of September, October, November, and December of each year, and most of the olives canned are marketed during the period December to August of the same crop year in which they are harvested. Therefore, the year beginning September 1 and ending August 31 inclusive is such a period.

"Part and Subpart" are defined to identify the order and all rules and regulations and supplementary orders issued pursuant thereto.

"District" is defined to refer to each of the districts for which councils are established under the proposed program. The division of the State into four districts for the purpose of selecting councils should provide adequate representation on the councils for all olive producers. These districts are outlined in the proposed marketing agreement and order. District 1 contains approximately 15,000 acres of olive trees and each of the other districts contains about 5,000 acres. Many of the plantings of olives in District 1, however, do not produce olives which are suitable for canning and such olives are generally used for oil. Furthermore, there are four principal production localities and marketing localities for olives grown in California, and each district includes such a locality.

(b) A council should be established for each of the 4 districts designated in the marketing agreement and order to make nominations for producer members and alternate members on the Olive Administrative Committee and to aid the committee in estimating the olive crop and in other matters. Each of such councils should be known as a "District Olive Advisory Council" to reflect its advisory character. Each council should be composed of 8 members, each of whom should be a producer in the district which he represents. The councils would assure that the views of growers were adequately presented to the committee. Because of this function the council membership should be eight, a number which is large enough to permit a member to be selected from and to represent each important segment of the olive producing industry in the district.

Only a producer should serve as a member of a council because councils are selected to represent the interests of growers under the proposed program. A producer who does not produce at least 80 percent of the olives handled or canned by or for him should not be eligible to serve, in order that all members would have the predominant viewpoint of the grower. Alternate members are not necessary because the duties of a council are primarily advisory in nature.

One-half of the initial members of the council should serve for a period beginning on a date to be designated by the Secretary and ending on April 15, 1954. One-half of the initial members of the council should hold office for a period beginning on a date designated by the Secretary and ending on April 15, 1955. This would provide a continuing group of experienced council members at all times after the selection of initial members and would also afford producers in each district frequent opportunities to select council members responsive to their views and wishes. Members should serve any further time which may be required for the selection and qualification of their respective successors in order to provide for continuity of the council. April 15 is an appropriate time for change of office as that date will permit the councils sufficient time after April 15 to nominate producer members for the committee in advance of the committee's term of office as provided hereinafter.

The Secretary should select the initial members of the councils from nominations submitted to him by producers in each district. Successor members of the councils should be selected in the same manner except that each council should hold a meeting of producers for the purpose of making nominations. Only producers in the district for which nominations are to be made may nominate or vote for any member for such district. A producer, however, having an olive orchard in 2 or more districts may vote in each district in which he is a producer. Nominations submitted to the Secretary should be those receiving the majority of the votes cast for each position.

The proposal upon which the hearing was held contained several provisions under which actions were to be taken by the committee, the council, or various industry groups, or the results of such actions forwarded to the Secretary within a short period of time, usually 5 or 10 days. While it is necessary that the Secretary be informed promptly of such actions, under some conditions such specific periods of time may be too short to permit the completion of the prescribed actions and forwarding reports thereon to the Secretary. Furthermore, under most circumstances, an agent of the Secretary will be present when these actions are taken and he would keep the Secretary advised. Accordingly, such specified periods of time which appear to be unduly short in the order under some circumstances have been deleted and the term "promptly" substituted therefor, because this is in keeping with the testimony that such actions should be taken, or reported, as promptly as possible.

The Secretary would have the benefit of the industry recommendations in respect to the councils membership but he should not be bound to select the persons nominated. However, only producers possessing the qualifications stated above may be selected by the Secretary.

Each person selected as a council member should qualify by filing a written acceptance in order that the Secretary may be advised whether or not the appointment has been accepted. If any vacancy occurs during a term of office, the vacancy should be filled in the same manner in which the position was originally filled. This provides authority for keeping the council memberships filled.

Reasonable notice should be given of any council meeting so that members and interested persons may attend meetings, to participate in, or to be kept advised of, the activity of each council. A council should give to the Secretary the same notice of meetings as it gives to its members.

Duties of the councils are set forth in the order and, in addition to making nominations for members and alternate members of the committee, and conducting meetings to make nominations to fill council vacancies, consist primarily of aiding and advising the committee in the performance of its duties. Those duties are assigned to the councils because they have been selected to represent growers.

Proponents of the order contended that alternate members to council members were not necessary and such a finding has been made hereinbefore. Proponents likewise proposed that decisions be based on a majority vote and that a quorum consist of at least 7 of the 8 members. It was contended that members would be sufficiently interested to attend meetings. However, vacancies would occur occasionally on the councils and, in addition, a member may be prevented from attending a meeting because of sickness, an accident or other reason beyond his control. Accordingly, it is concluded that quorum requirement of 7 members is too restrictive and such restriction would, on some occasions, prevent a council from making needed decisions. Therefore, a quorum of at least 6 members should be required and decisions should be by majority vote of the members present.

Other provisions relating to the establishment and operation of the councils are set forth in the proposed program. These provisions are necessary to provide orderly methods for establishing, and for conducting the business of, such councils.

(c) An agency should be established to administer the proposed marketing agreement and order and it should be designated the "Olive Administrative Committee" to reflect its administrative character. It should be composed of 16 members of whom 8 should represent producers (referred to herein as "producer members") and 8 should represent canners (referred to herein as "canner members") Such a committee would be large enough to give adequate representation to different segments of the industry and would not be so large as to be cumbersome. Each of the four districts should have 2 members (and 2 alternate members) on the committee as this would provide representation for all olive producers in the State of California. Such members and their alter-

nates should possess the same qualifications as those required for council members because such persons would represent producers. Three of the 8 canner members of the committee should represent cooperative marketing associations of producers which can olives and 5 should represent other canners. This division is generally representative of the comparative tonnage canned by each group. Each canner member and his alternate should be either a canner of olives or an employee or agent of a canner of olives, actually engaged in the canning of olives while he is such member or alternate member, because such a person would represent canners.

The proposal upon which the hearing was held provided that the committee consist of 8 producer members and 5 canner members. Some opponents of the proposed program contended that canners representation on the committee should be larger because, among other things, (1) the burden of regulations would be borne by the canner, (2) canners would pay the assessments levied to defray the expenses of the program, (3) canners were better qualified than growers to recommend canning and shipping regulations, and (4) canners have a greater interest in olives for canning than do growers. Although regulations would apply to canners under the proposed marketing agreement and order, individual canners would be free to decide what quantity of olives they should purchase. Shipping regulations would require canners to limit shipments during a crop year, but shipments which had been prohibited in such year could be made during the next crop year. Under such circumstances, any adjustments needed in tailoring the supply of canned olives to the demand would be made by applying canning regulations on the new crop, which were sufficiently restrictive to compensate for the supply in canners' hands as a result of shipping limitations. Therefore, the canners would be able to pass much of any burden under the proposed marketing agreement and order on to growers. This is especially true in the case of canning regulations. However, the canner probably would find it more difficult to meet overhead costs if the volume canned were reduced under canning regulations. Likewise, under shipping regulations, canners must either dispose of fruit in other channels, which cannot be shipped as canned fruit during the crop year, or bear the expense of carrying it over into the next crop year. Growers have large investments in orchards and production equipment. Canners have large investments in canning plants and processing equipment. Growers need the canning outlet in disposing of their olive crops and canners need the olives which are produced by growers in order to operate their businesses. Both canners and producers have substantial interests in the ripe and green-ripe canned olive industry and they should have equal voice in solving the problems confronting the industry.

An alternate member should be provided for each member. An alternate of the committee member shall act in the place and stead of such member during his absence or in the event of his removal, resignation, disqualification or death until a successor for such member's unexpired term has been selected and has qualified. This provision is necessary in that it would tend to make a full committee available when the committee acts and would tend to insure that each group be represented at committee meetings. Such alternate members should have the same qualification as the members for whom they are selected to act as alternates.

The term of office of members and their alternates should be one year, ending on May 31, and they should serve until such later date as may be necessary for the selection and qualification of their respective successors. A term of one year would permit the industry to have a desirable degree of control over the committee and would give producers and canners opportunity to recommend to the Secretary changes in their representations at reasonable intervals. June 1 is a reasonable date on which to begin a new term of office since this date precedes the commencement of the crop year (September 1) by a period long enough to permit the committee members to familiarize themselves with the requirements of their office and to keep abreast of the accumulating data relative to the oncoming crop. At the same time the date of termination of May 31 of the committee's term of office is late enough that, throughout the major portion of each crop year, any regulations imposed will be administered by the committee responsible for making such recommendations. However, initial members of the committee and their alternates should begin their term of office on a date to be designated by the Secretary, because the effective date of the order is unknown.

The order should prescribe a nomination and selection plan for initial and successor members and their alternates which would provide representation on the committee as set forth hereinbefore. Producer members and their alternates should be nominated by, and from among, the members of the councils because council members are selected to represent producers. Nominations for initial producer members and alternate members should be forwarded to the Secretary promptly after the selection of the councils. Nominations for successor producer members and alternate members of the committee should be forwarded to the Secretary annually on or before May 5 preceding the term for which they are to be selected. Nominations for canner members and alternate members should be made at meetings of each of the 2 groups from which representation is to be chosen. Cooperative marketing associations of producers engaged in the business of canning olives should meet and nominate 3 canners for members and 3 canners for alternate members. Canners of olives other than cooperative organizations should meet and nominate 5 canners for members and 5 canners for alternate members. The initial canner nomination meetings should be called by the Secretary promptly after the effective date of the order. Subsequent nomination meetings for canner members and alternate members should be called and conducted by the committee not later than May 1 of each year. Balloting at all meetings should be on the basis of the majority vote of those present and voting.

The notice of hearing stipulated that a canner who desires to vote at such a meeting shall file an affidavit with the Secretary showing his production of canned olives during the preceding crop year. Proponents contended such information would be useful to the Secretary in selecting canner members. However, this provision should be deleted because there are about 26 olive canners in the State of California and their qualifications will be readily available.

Such a nomination and selection plan, as set forth in the proposed program which is attached hereto, is fair and equitable from the standpoint of the different industry groups involved.

The Secretary should select initial and successor members and alternate members from nominations submitted to him by the producer and canner groups specified in the order, or from other eligible persons. The Secretary thus would have the benefit of the industry recommendations in respect to the committee membership but he should not be bound to select the persons nominated.

In the event that a nomination for one or more members or alternate members of the committee is not submitted to the Secretary he should select such members or alternates without regard to nominations, provided that the persons selected shall be eligible. This would prevent delay in the formulation or continuation of a committee. Similarly if any vacancy should occur during the term of office of any member or alternate member, the vacancy should be filled in the same manner as set forth hereinbefore. However, if nominations to fill any such vacancy are not made within 20 calendar days after such vacancy occurs the Secretary should fill such vacancy from eligible persons without regard to nominations. Members or alternate members, prior to serving on the committee, should indicate that they have undertaken to assume the powers and duties of membership by filing a written acceptance promptly with the Secretary, in order that the Secretary may be informed as to whether or not such positions have actually been filled. These provisions contain the authority needed for keeping the committee memberships filled.

The members of the council, the committee and the alternate members of the committee should serve without compensation. Any actions taken by the councils or the committee will be for the benefit of the whole industry and that benefit alone should be sufficient recompense to such members. However, reasonably necessary expenses should be reimbursed to council and committee members and committee alternates when incurred in connection with the performance of their duties. Expenses of committee and council members and of alternate committee members should be reimbursed in order that such persons would not suffer undue financial loss as a result of performing their duties. Examples of ex-

penses for which such persons should be reimbursed are traveling expenses, charges for meals, and hotel bills.

The committee should be given those specific powers which are set forth in section 8c (7) (C) of the act. Such powers are necessary to enable an administrative agency of this character to function.

The committee's duties, as set forth in the marketing agreement and order, are necessary for the discharge of its responsibilities. These duties are generally similar to those specified for administrative agencies under other programs of this character.

All decisions of the committee should require at least 9 affirmative votes, in order that at least a majority of the committee must approve the proposed action for a favorable decision. Any decision with respect to canning and shipping regulations should require the concurring vote of at least one producer member from each district. This provision assures that any problems concerning regulations which may be peculiar to that district will be fully brought to the attention of the committee before recommendations for regulations are made. The committee should be permitted to vote by mail, telegraph or telephone when a matter may be so routine or of so little importance that it would be unreasonable to require the committee to hold an assembled meeting. In addition this would permit rapid action in case of an emergency. However, when any proposition is submitted for voting by such a method, one dissenting vote should prevent its adoption. Moreover, so that committee members would be informed properly with respect to any matter submitted to them for voting by this method, the proposition should first be explained accurately, fully and identically by mail, telephone or telegraph to all of them. Any vote by telephone should be confirmed in writing to provide a written record of the votes cast.

Other provisions relating to the establishment and operation of the committee are set forth in the proposed marketing agreement and order. These provisions are necessary to provide orderly methods for conducting the business of the committee.

(d) The committee should hold a meeting in advance of each crop year (such meeting for the initial crop year should be held as soon as practicable after the effective date of the program) to prepare and submit to the Secretary a report setting forth its marketing policy for the regulation, if any, of the handling of olives during such crop year. The policy so established would serve to inform in advance of the particular crop year, persons in the industry and in the trade of the committee's plans for regulations for that year.

In order to plan a comprehensive, efficient, and effective policy for regulating the handling of olives in any crop year, it is necessary that all important factors, having a bearing on the number of cases of canned olives which could be sold at a price which would tend to approach the parity price to producers, be weighed and evaluated. In developing its marketing policy the committee should give consideration to the supply, demand and other factors set forth in the program which would have a bearing on the marketing of canned olives during the ensuing crop year, and should include in its report to the Secretary such data and information.

An important factor in arriving at the supply of canned olives which would be available for marketing during the crop year is the estimated production of each size of each variety of canning quality olives which is to be produced during that crop year. There is considerable evidence in the record indicating that such an estimate can be made with a fair degree of accuracy by early August when the program provides for submission of such a marketing policy. Opponents of the proposed program contended that such an estimate would vary widely from the actual production of canning quality olives and therefore, canning regulations based on such estimates would be ineffective. Opponents, however, based part of their opposition to the order on the grounds that a light crop of olives would be produced in the 1953-54 season and that such a crop would alleviate the need for the order. The fact that some opponents believe themselves qualified to predict, as early as May, the size of the crop, at least in general terms, weakened their position in contending that the committee could not make a reasonably accurate estimate in early August. The committee should, of course, change and modify the estimate at a later date if crop conditions indicated the need for such action, and any such changes could be taken into consideration in recommending canning regulations. Furthermore, the order provides authority for shipping regulations, as discussed more fully hereinafter, and such regulations would aid in tailoring the supply of canned olives marketed during a crop year to demand in those years when the supply was underestimated. Under such circumstances, the supply of olives in excess of that quantity which could be marketed at prices to growers which tend to approach the parity price for olives for canning, could be carried over into the next crop year and canning regulations could be issued for that year which would compensate for such carryover.

The committee should formulate and adopt a marketing policy for the ensuing crop year (beginning September 1) not later than August 15. Such a date should not be applicable to the initial crop year but instead the committee should hold a meeting for such purpose as soon as practicable after the effective date of the order. A marketing policy report should be submitted to the Secretary promptly after the holding of each policy meeting in order that he may be informed of the action taken. The report should also include the recommendations of the councils to provide full information to the Secretary. Such a report should contain a detailed record of that portion of the committee's meeting concerning the marketing policy. A verbatim record of such meeting is not necessary because such a record would be needlessly expensive and an agent of the Secretary generally would attend the meeting.

The committee should be permitted to modify or change its marketing policy if necessary in the light of changed economic and crop conditions which can occur frequently and without advance notice. Such changes could make a previously adopted marketing policy which had been entirely appropriate at the time of its adoption unsuited to such changed conditions. A report of such modified marketing policy should be forwarded to the Secretary promptly after it has been adopted, because of the importance of such policy in recommending regulations, and the report should include the reasons and basis for the committee's actions as well as the recommendations of the councils.

The committee should give reasonable notice through newspapers, or other channels if the committee deems it desirable, to producers and handlers of meetings to consider a marketing policy or modification thereof. The committee shall likewise give similar notice of each policy report forwarded to the Secretary. Copies of such reports should be made available at the office of the committee for examination by producers and handlers since they are vitally concerned in the marketing policy decisions of the committee.

(e) The proposed marketing agreement and order should provide for regulations under which the volume of olives canned could be limited because the quantity canned is in direct proportion to the quantity available for sale. This objective could be achieved through application of regulations at the point where the determination is made as to which olives should be canned. Canning olives are, in general, those which have attained a sufficient size to be desired by canners. Size is by far the most important factor in determining canning olives although, as set forth hereinbefore in discussing the definition of canning olives, canners eliminate some olives classified as culls at the time size-grading is done by them. However, it was pointed out that the fruit eliminated varied with cannners and that fruit which some canners considered to be culls were considered by other canners as being desirable for canning due to the different methods of processing employed and for other reasons.

The principal canning varieties are Mission, Manzanillo, Sevillano and Ascolano. Canners sell canned olives primarily by size, with the largest size of a variety selling at a much higher price than small sizes of the same variety. As a result, prices paid to growers for canning olives increase with increases in the size of such olives. Sizes in which olives are now generally canned, from small to large, are standard, medium, large, extra large, mammoth, giant, jumbo, colossal, super colossal, and special super colossal. The Mission and Manzanillo varieties are generally canned in sizes standard to mammoth. The Ascolano is canned in mammoth and larger sizes and the Sevillano in giant and larger sizes. The Sevillano variety is known as a "Queen" variety, and this term is also used by some mem-

bers of the industry in referring to Ascolanos and other large-fruited varieties. Within every variety, however, the smaller the size the lower the price to the grower, to the canner, and to the consumer is the general rule. Comparable sizes in some different varieties, however, have marked differences in consumer acceptance. For example, the giant size Sevillano is generally recognized as having the least desirable taste and texture of the pack of that variety, but the giant size Manzanillo, which is produced in only a very small quantity, is a premium size because the pit is small in relation to the size of the fruit. Likewise, the mammoth size Mission is preferred over the mammoth size Ascolano because of the more favorable meat-pit ratio of the mammoth Mission.

The market value of the olives a grower produces for canning and a canner sells as canned olives, therefore, depends primarily on the size composition by variety of such olives. Volume regulations applied on the basis of size by variety should be fair and equitable to growers and canners, because the equities of growers and canners in the market for canned olives are directly related to the size composition of the olives they have for sale.

In referring to olives, the industry often groups the four principal canning varieties into two groups. One group consists of the Mission and Manzanillo varieties and the other group of the Sevillano and Ascolano. The smaller varieties (principally Mission and Manzanillo) have a widespread use as an ingredient in other foods. The varieties of the larger fruit group (Sevillano and Ascolano) are generally consumed as appetizers or garnishes. However, the difference between adjoining sizes is small (1/16 inch in diameter) and there is evidence of some consumer substitutability of adjacent sizes even with markedly different selling prices for such sizes.

Each variety of the Queen group is generally completely harvested from an orchard at the same stage for both canning and other outlets at the same time and, except for such unprofitable sizes as the grower elects to leave on the tree, such fruit is delivered to a grading station or cannery as promptly as possible after harvesting. The canning size and quality olives are sorted out with those not desired for canning utilized in Spanish green or Sicilian styles or sometimes crushed for oil. However, these varieties are in general not desired for oil.

The varieties of the other group have two distinct harvesting seasons. The olives for canning are harvested first and those for oil or for Greek style olives are picked at a later date. The grower of these varieties may conduct his harvesting in such a way as to leave on the tree those sizes which are too small or unprofitable for canning to permit these sizes to become more suitable for oil use.

All of these differences should be carefully considered in recommending and issuing canning regulations. If varieties were not treated differently under canning regulations a limitation issued providing that only giant size fruit and larger could be canned would eliminate entirely from canning the Mission and Manzanillo varieties. The program should provide regulations which will tend to establish parity prices to growers for the portions of their olive crops which are canned. At the same time, growers should receive as favorable returns as possible from those portions of their crops which are diverted to other uses. To establish canning regulations in advance of the time that crop, market, and carryover conditions could be taken into consideration would not be as satisfactory as regulations imposed after these factors had been taken into consideration. For example, conditions in a particular season may indicate that a relatively larger proportion of the oncoming crop of the jumbo size of the Sevillano should be canned than of the giant size and that all sizes larger than the jumbo should be canned without limitation. This situation probably would exist if the colossal and larger sizes had been disposed of in advance of the oncoming season, if the carryover of the jumbo size was moderate, and if an over-supply of the giant size existed. However, if the carryover was well distributed between sizes, a canning regulation which reduced the pack of each size by the same percentage would be appropriate.

The principal outlet for the quantities of the Mission and Manzanillo varieties which are diverted from canning is oil. Canning regulations for such varieties generally should specify a minimum size which may be canned. A requirement that the larger sizes or a percentage of each size of such varieties be diverted generally would be a less practical regulation, because a grower, under such regulation, must harvest all the fruit of canning size at the time of the first picking and generally before the fruit to be diverted has reached its maximum value for oil. Many growers now leave the smaller sizes of these varieties on the trees at the time of the first harvest, and, if a regulation increased the minimum size which may now be canned, growers should be able to pick to the specified minimum size without too much difficulty. Any increased picking cost resulting from such harvesting should be more than offset by the increased returns to growers for the portion of the crop sold in the canning market. In some years, however, particularly for the Manzanillo variety, the Spanish green style outlet may be more favorable than diverting to oil. In such years, it would be to the growers advantage to bring in most or all of the crop and divert the portion which may not be canned to that outlet, and regulations in those years should be such as to permit diversion to Spanish green style.

The crop of some growers may run disproportionately heavy to the small sizes and such growers in years where complete diversion of the smaller canning sizes was necessary would not share in the canning market. However, in such years, in the absence of regulations, returns to growers for such small sizes often would not be equal to the returns received for such olives utilized in other channels. Furthermore, if provisions were made in the proposed program under which a grower of fruit of sizes that could not be canned under canning regulations was permitted to market the same proportion of such olives in the canning market as the proportion which a grower of preferred sizes marketed, order restrictions would be ineffective. Improved cultural practices and thinning methods tend to produce larger sized fruit and growers may, by following such practices, produce crops which contain lesser quantities of the restricted sizes. The industry customarily diverts upon receipt at the cannery or size-grading station certain of the least preferred sizes of the various varieties from the canning outlet.

Therefore, the establishment of canning regulations at this point would not result in an undue burden on the industry. Practically all olives delivered to canners are classified in size groups for the purpose of determining the total purchase price for each lot. It is not intended that any of the various methods that are now used in classifying olives by size be changed and it is intended that any reasonable new method be permitted. The marketing agreement and order should provide that the committee, after considering supply, including carryover, and demand conditions, would arrive at the quantity of olives which should be canned from olives harvested during the specified crop year. This quantity would be reduced to a percentage of the estimated supply by varieties and by sizes of such varieties. The proposed program authorizes the committee to recommend that the Secretary issue a regulation which would apply such percentage to each canner's acquisition of olives for canning and would require the utilization of all other than such percentage of olives in other than the canning market. The committee should furnish to the Secretary the information upon which it acted in making such recommendations in order that he may have that information available in reaching a decision on the recommendation. Based upon such recommendation and information, or upon other information available, the Secretary should be authorized to issue canning regulations limiting or prohibiting the total quantity of a size or sizes of any variety or varieties of olives harvested during any crop year which may be canned, if he finds such regulation would tend to effectuate the declared policy of the act. Such regulations should designate the percent of each size of each variety of canning olives which may be canned.

Authority should be given to the committee to recommend, and the Secretary to issue, a modification, suspension or termination of any such limitations or prohibitions, since such actions may become necessary as the result of changed conditions. When the committee files recommendations for regulations with the Secretary, it should furnish a detailed record of the portion of its meeting relating to such recommendations for the same reasons such a record is furnished of a marketing policy meeting. The committee should give prompt notice through newspapers having general circulation in the area, and should give such notice through other channels if

the committee deems it desirable, to producers and handlers with respect to each meeting held to consider such recommendations and with respect to all such recommendations submitted to the Secretary, because producers and handlers are vitally interested in such recommendations. The first recommendations by the committee for canning regulations, if any, should be forwarded to the Secretary not later than September 1 of that crop year since such restrictions should generally be made effective before harvesting of the olive crop is begun. However, such recommendation with respect to the initial crop year, and under emergency conditions in succeeding years, may be made at a later date. It would generally be impracticable materially to modify a canning regulation late in the harvest season, because growers who had harvested earlier would be disadvantaged if the regulation were relaxed and growers harvesting after the modification would similarly be disadvantaged if the regulation were made more restrictive.

When the Secretary has issued a regulation designating the percentage of each size of each variety of canning olives which may be canned, any handler who desires a canning quota should apply to the committee for a certificate showing the quantity of canning olives which is contained in any lot of natural condition olives which he acquires. This would provide an orderly procedure for the establishment of canning quotas. The handler should be required to size-grade such olives under the supervision of the committee, in order that the quantity of each size of each variety of such olives may be determined. The committee should be authorized, with the approval of the Secretary, to designate another agency to supervise such size-grading, because such an agency may be found which could perform this service more efficiently or at a reduced cost. The supervision furnished by the committee, or an agency designated by it, would assure that the determination of the sizes and varieties in each lot of olives was accurately made. Canning regulations would be based on size. Inaccurate determinations concerning the size composition of fruit delivered to the canner would result in a canner obtaining a canning quota which was either larger or smaller than that authorized under regulations.

The committee should issue, or cause to be issued, to the handler applying for the canning quota a certificate showing the quantity of canning olives contained in the lot. The certificate issued may be tentative as long as olives to be diverted are in natural condition. However, the certificate would be made final when olives to be diverted are in a form in which they cannot be reoffered for certification. Normally this will occur when olives have been placed in a vat for processing or into barrels or tanks. In such cases, the olives will have lost the fresh form which characterized them upon their original exhibition to the supervisor of the committee and they will not then be susceptible of being certified again at a later date. Likewise, olives which have been packed in lug boxes for fresh shipment would be considered as olives which could not later be offered for recertification because of the expense involved in packing such olives in lugs.

The marketing agreement and order should contain a prohibition providing that no handler should offer for certification olives covered by a previous certification. This is for the purpose of preventing the same olives from being used in obtaining more than one canning quota. A copy of the certificate should be issued to the producer of the olives or other person who delivered the olives in order that he may know what proportion of the olives may be canned under the order restrictions.

The handler may compute the canning quota by multiplying the percentage restriction for each variety and size established by the regulation issued by the Secretary by the quantity of canning olives shown for such variety and size in the aforesaid certificate, and by multiplying the result by the conversion factor which has been established to convert a quantity of olives into a quantity of cases. The committee should likewise calculate the canning quota for each variety and size resulting from each certificate issued inasmuch as the total of the canning quotas issued to all canners should be calculated to determine whether or not a shipping regulation should be recommended, and the committee should furnish the canner with a copy of its determination of such quota. The quota should be shown in terms of cases of canned olives which a canner may can. This will be accomplished by applying a conversion factor established by the committee, with the approval of the Secretary, to the quantity of olives which may be canned. It is necessary that the quota be shown in cases in order that compliance with the order restrictions may be checked without too much difficulty. Although the number of cases which one canner obtains from a given quantity of olives will vary somewhat from the number of cases another canner may obtain from a like quantity, or which the first canner may obtain from a like quantity of a different variety or size, standard conversion factors are now used by the industry and such factors are generally considered fair and equitable for this purpose. Furthermore, these conversion factors may be changed to meet changing conditions.

The order should provide that a canning quota or any portion thereof may be transferred to another handler under rules and regulations established by the committee with the approval of the Secretary. It is necessary that such transfer be subject to rules and regulations inasmuch as the committee must be informed of such transfers in order to have knowledge at all times of the canning quota held by each handler. It is impractical to specify these rules in the marketing agreement and order, because the committee should have flexibility in the operation of the program. Unless the committee possesses such knowledge it would manifestly be very difficult to check compliance with the order. Likewise, the order should provide that a canning quota may be transferred only if the olives to which the quota applies are also transferred to the same handler. If it were not for this limitation it might be possible for a person to apply for and obtain a canning quota on olives which he planned to utilize for other than canning purposes and transfer such a quota to a canner who would use it, under certain conditions, to can olives, the canning of which had been prohibited under the order.

The committee should be authorized, with the approval of the Secretary, to issue procedural rules concerning the certification, computation, notification and transfer of canning quotas in order to meet changing conditions as they arise, because all such conditions cannot be foreseen.

(f) The proposed program should provide authority for limiting the shipment of the volume of olives canned pursuant to canning regulations, because such regulations should be issued, when needed, to limit sales of canned olives to the quantity which could be marketed at prices which will tend to reflect parity prices to growers. The purpose of the marketing agreement and order is to regulate the handling of olives grown in the State of California so as to increase returns to producers. The major device in accomplishing this objective is the establishment of canning regulations. Canning regulations would be based on an estimate of the olive crop and on the demand which exists for canning olives during a particular crop year. These estimates of the crop and demand would be made in advance of the harvesting season although such estimates should be changed as indicated by changed conditions. The crop actually picked could exceed the estimate, or the demand for canned olives could decrease due to changed economic conditions, and, under such circumstances, the quantity of olives covered by canning quotas issued pursuant to canning regulations would exceed the marketing requirements for such olives. If such excess quantity of olives available for marketing as canned olives were permitted to be shipped, lower prices would be received by canners and returns to growers under such conditions would be depressed below the level which it is the declared policy of the act to establish.

The proposed program should provide, therefore, that if the total quantity of olives permitted to be canned during a crop year pursuant to canning regulations, will exceed the total estimated marketing requirements for such olives, regulations limiting the shipment of canned olives may be recommended by the committee and issued by the Secretary. Such a regulation should limit the quantity of olives canned from olives harvested during a crop year that may be shipped during such crop year. The regulation should specify the percentage of each Variety Group which a handler may ship. The percentage would apply to each handler's total canning quotas for the specified Variety Group and, when multiplied by such quotas, would result in the total cases canned from such quotas which he may ship during the crop year. Olives carried over from the previous crop year or crop years may be shipped without limitation when

shipping regulations are effective as the quantity of such olives carried over would be taken into consideration in arriving at canning regulations. Authority should be included in the marketing agreement and order for a regulation for Variety Group 1 which differs from the regulation established for Variety Group 2, because the supply of one Variety Group may exceed the marketing requirements for that group by a greater percentage than the supply of the other Variety Group exceeds the marketing requirements for the latter group. A shipping regulation should be established for a Variety Group only if the supply of that group exceeds the estimated marketing requirements for such group, and no regulation should be established if the total supply of both groups does not exceed the estimated marketing requirements for both groups, because shipping regulations should not restrict shipments to a supply which would be less than the demand for canned olives. If both groups are in excess of the market requirements, limitations recommended should be such as to reduce availability of each group to 100 percent of the marketing requirements. If one group has an availability in excess of 100 percent and the other group has an availability of less than that amount, the limitations should be such as to reduce the availability of the former group, not to 100 percent of the marketing requirements for that group, but to such higher percentage as will make the total availability of all olives equal to 100 percent.

It is intended that the committee recommend shipping regulations to the Secretary, if any are deemed advisable, on or before December 1. The date of December 1 is late enough so that the committee can determine with a fair degree of accuracy the quantity of olives expected to be canned and this date is early enough that shipping restrictions could be imposed prior to the time most canners ship any volume of canned olives. The committee should compute, after the harvesting season for olives for canning has been substantially completed, the total of the canning quotas issued and if such computation indicates that the shipping regulation should be modified or suspended, it should be authorized to recommend, and the Secretary to issue, a modified regulation consistent with the canning quotas computation so made.

The Secretary should be authorized to issue any such regulations on the basis of the recommendations of the committee, or on other available information, when he finds that such regulation will tend to effectuate the declared policy of the act.

The proposed marketing agreement and order upon which the hearing was held provided that the committee shall recommend shipping regulations if canning quotas exceed marketing requirements by 3 percent or more, but made such recommendation permissive if such quotas exceeded marketing requirements by less than 3 percent. Likewise, it was the intention of some proponents that the Secretary be required to issue a shipping regulation in the former case, but that such issuance be permissive in the latter case. There was some contention concerning the appropriateness of the 3 percent division. It is found and concluded that the recommendation by the committee and the establishment by the Secretary of shipping regulations should be permissive in both situations, because estimates of marketing requirements probably would not be sufficiently accurate that different provisions of the order should be invoked as soon as canning quotas exceed such estimates by 3 percent or more.

The division of olives into Variety Group 1 and Variety Group 2 for regulatory purposes as set forth in the proposed program is fair and equitable for the reasons set forth herein. Varieties in group 1 may be regulated somewhat differently than varieties in group 2 under canning regulations as stated hereinbefore. These groups are competitive, however, and the quantity available in each group should be considered together in recommending and establishing shipping regulations. Buyers who desire a variety of olives from one group may not desire a variety from the other to quite the same degree but such buyers generally will find it possible to utilize a variety from the latter group, if a variety cannot be obtained from the former group.

There is some discussion in the record as to whether shipping regulations should be issued during a crop year when canning regulations have not been established. Because shipping regulations are based on a percentage of the canning quotas issued by groups of varieties, it would be impractical to impose shipping restrictions when canning regulations had not been made effective.

Canners should not be permitted to ship during the crop year any olives the shipment of which has been prohibited under shipping regulations. However, handlers should be permitted to ship olives, which they have in their inventories in the form of either canned olives or olives on which they have a canning quota, in a crop year subsequent to a year in which shipping regulations had been established. Regulations limiting the canning of olives in such subsequent crop year would be established after giving due consideration to olives which canners were prohibited from shipping during the prior crop year.

The committee should be authorized to recommend to the Secretary a modification, suspension, or termination of shipping limitations and the Secretary should be authorized to take any of such actions whenever to do so would effectuate the declared policy of the act for the reasons stated under (e) above. The committee should give notice of meetings to consider shipping limitations in the same manner and for the reasons stated for giving notice of meetings to consider recommendations for canning regulations. The Secretary should notify the committee promptly of each shipping limitation issued in the same manner and for the same reasons that he should notify the committee of canning limitations.

The manner in which each handler computes his shipping quota should be specified in the order so that each handler may be informed of the method of computing such quota. The committee should be authorized to establish, from time to time, with the approval of the Secretary, procedural rules, not inconsistent with the provisions of the order, which may be deemed necessary to carry out the administration and operation of the order in connection with shipping quotas. Such procedures should be limited by the basic provisions of the order and the committee should not have any authority to modify or in any way alter order provisions. Authority is limited to issuing rules and regulations, with the approval of the Secretary, concerning matters which cannot now be foreseen and which are incidental to such shipping quotas.

(g) Canners should be required to keep certain records and to submit certain reports to the committee so that it would have available the information necessary for efficiently administering the proposed program on a fair and equitable basis. Because canners are the persons who have the information which is necessary for the efficient administration of the order, they should be required to furnish such information.

Canners should be required to file promptly with the committee, upon its request, a certified report of all canning olives in process for canning and all canned olives held as of July 1. This report should also include an estimate of the amount of canned olives the canner will ship during the months of July and August. This report should show the quantity of each size and each variety of olives and it could be likened to an inventory report. This information is necessary because the committee must estimate the inventories of the various canners within the area on the date it holds its first policy meeting each year (on or before August 15 except for the initial year) Although a date later than July 1 would be preferable from the standpoint of the committee as the date of which this inventory should be taken, this date should afford the canner sufficient time to take the inventory and submit the report to the committee well in advance of the policy meeting.

There was some discussion on the record concerning omitting the July 1 date and leaving the date "open." The date of July should be specified inasmuch as the proposed program provides that the report should include an estimate of shipments during July and August. However, if it later develops in the administration of the marketing agreement and order that this report should be modified, sufficient authority exists for the committee to request, with the approval of the Secretary, that the canner file a report as of some other date or containing such other information as changed conditions may indicate. This authority is contained in the provision of the program discussed in the next paragraph.

Each canner should file with the committee a certified report for any period specified by the committee, with the ap-

proval of the Secretary, showing (1) the quantity of olives of each size of each variety canned, (2) the quantity of each size of each variety of canned olives held by him and the location thereof at the end of such period, and (3) cumulative totals of each size of each variety canned from the beginning of the current crop year to and including the end of the period for which the report is made. This report is necessary for the proper administration of the order because it would provide an accurate accounting of all olives canned by the canners which would be needed to determine whether all regulations had been properly complied with. Likewise such a report would be necessary in billing canners for their pro rata share of expenses incurred under the marketing agreement and order. Upon the request of the committee, with the approval of the Secretary, canners should furnish such other reports and information as the committee needs to perform its functions under the order. It is impossible to anticipate every type of report or kind of information which the committee may need in administering the order and it should have the authority to obtain such reports when needed.

By reason of the nature of reports which a canner would be required to file and the reports he would need to keep, it is possible that some of the information contained therein might be such as to disclose trade secrets or affect such canner's trade position, financial condition or business operations if known to his competitors. The proposed program should provide, therefore, that each handler be protected against disclosure of the confidential information furnished by him. This objective could be attained by having the information furnished to one or more employees of the committee charged with the responsibility of preventing the disclosure of information in such manner as would reveal the identity of trade secrets of an individual handler. Nevertheless, such information should be furnished to the Secretary upon his request or to the committee in connection with its investigation of alleged violations.

Canners should be required to maintain such records of all olives received by them as may be prescribed by the committee. Such records may include, but not be limited to, the quantity of olives of each size of each variety acquired from each person and the names and addresses of all such persons, total receipts of olives, total inventory of canned and canning olives, and records of the disposition of each size of each variety of canning olives handled by the canner. Most of these records are now maintained by canners in the ordinary course of business and such requirements should not impose undue burden on them. The maintenance of such records are necessary in order that correct information may be furnished to the committee and that the committee may properly administer and enforce the program.

The committee through its duly authorized representatives should have access to any premises during regular business hours where olives are canned for the purpose of inspecting olives, and and any and all records of canners, with respect to the acquisition or disposition of all olives which may be held or disposed of by canners. The committee thus would be able to ascertain whether the reports and data submitted to it are accurate and whether handlers are complying with provisions of the order.

(h) The committee should be authorized to incur such expenses as the secretary finds are reasonable and likely to be incurred by it during each crop year for the maintenance and functioning of the committee and of the district councils, and for such other purposes as the Secretary may, pursuant to the provisions of the program, deem to be appropriate. Such expenses would include but not be limited to office rent, salaries of employees, telephone, telegram expenses, office supplies, travel and all other reasonable expenses. The funds to cover the expenses of the committee and the district councils should be obtained through the levying of assessment on canners. Each canner should pay to the committee upon demand with respect to all canned olives canned by him during the crop year his pro rata share of the expenses which the Secretary finds will be incurred by the committee and the councils during each crop year. In this way payment by canners of assessments would be proportionate to the respective tonnage canned by each canner and assessments will be levied on the same lot of fruit only once. Such assessments are equitable as their apportionment among canners is based upon the quantity of olives canned and each canner's contribution will be related to his pack.

Provision should be made for increasing the rate of assessment during the course of the crop year when necessary to obtain sufficient funds to cover any later findings by the Secretary relative to the expenses of the committee and district councils. In order to provide funds to carry out its functions during periods when sufficient assessment money may not be due and payable the committee should be permitted to accept advance payments from canners. These advance payments should be credited by the committee towards such assessments as may be levied later against the particular canner. Permitting the committee to accept advance payments is in accordance with the usual practice in the operation of marketing agreement and order programs and would provide the committee with funds during the early part of the crop year when assessment payments would normally be light.

The committee should be authorized to collect assessments throughout the period the order is in effect even though particular provisions of the order are suspended, in order to provide for continued functioning of the committee and councils during such times. If at the end of any crop year the assessments collected exceed the expenses incurred each handler's share of such excess should be credited to him against the operations for the following crop. However, if any handler requests payment of his share of such excess it should be paid to him, because he should be afforded the opportunity to decide that his share be paid to him rather than left as a credit with the committee.

All assessment moneys received by the committee should be used solely for the purposes and accounted for in the manner specified in the order. The Secretary should be authorized to require the committee at any time to account for all receipts and disbursements.

(i) The provisions of §§ 915.74 through 915.87, as hereinafter set forth, are, except as indicated below with respect to termination of the order as set forth in paragraph (c) of § 915.80, provisions similar to those which are included in other marketing agreements and orders now operating. All such provisions are incidental to and not inconsistent with the act and are necessary to effectuate the other provisions of the marketing agreement and order and the declared policy of the act. Those provisions which are applicable to both the proposed marketing agreement and order, identified by both section numbers and titles, are as follows: § 915.74 *Personal liability;* § 915.75 *Separability;* § 915.76 *Derogation,* § 915.77 *Duration of immunities;* § 915.78 *Agents;* § 915.79 *Effective time;* § 915.80 *Suspension or termination,* § 915.81 *Proceedings after termination,* § 915.82 *Effect of termination or amendment;* § 915.83 *Amendments;* and § 915.84 *Right of the Secretary.*

Those provisions which are applicable to the proposed marketing agreement, identified by both section numbers and titles, are as follows: § 915.85 *Counterparts;* § 915.86 *Additional parties,* and § 915.87 *Order with marketing agreement.*

Termination of the order would be required pursuant to section 8 (c) (16) (B) of the act at end of the then current crop year whenever the Secretary finds that such termination is favored by a majority of the producers and such majority produced more than 50 percent of the volume of olives produced in the area, but such termination under this provision should be effective only if announced on or before the end of the then current crop year, as provided in the act. In order to give producers and other interested persons adequate notice thereof the order should provide that any termination as aforesaid should be announced on or before August 15 of any crop year to be effective at the end of the crop year (August 31)

The order and all of the terms and conditions thereof will tend to effectuate the declared policy of the act with respect to olives grown in the producing area by establishing and maintaining such orderly marketing conditions therefor as will tend to establish prices to producers thereof at a level that will give such olives a purchasing power with respect to parity prices and protect the interests of consumers by (1) approaching the level of prices which it is declared in the act to be the policy of Congress to establish by gradual correction of the current level of prices at as rapid a rate as the Secretary deems to be in the public interest and feasible in view of the current consumable demand; and (2) by authorizing no action which has for its purpose the maintenance of prices to the

producers of such olives above the level which it is declared in the act to be the policy to establish.

Rulings on proposed findings and conclusions. Interested parties were allowed until June 8, 1953, to file briefs with respect to findings of facts and conclusions based on evidence introduced at the hearing. This time was later extended to June 18, 1953.

Briefs were filed by Charles F. Lawrence, attorney for proponents, in support of the proposed order and briefs were filed by Carlisle B. Lane, attorney for the Olive Industry Group, by Andrews & Foster, attorneys for V. R. Smith Olive Company, by Owen Bryant and by Del Rosa Packing Company in opposition to the proposed order. Each point covered in the briefs was considered carefully, along with the evidence contained in the record of the hearing, in making the findings and reaching the conclusions herein set forth. To the extent that the suggested findings and conclusions contained in the briefs are at variance with the findings and conclusions contained herein, the request to make such findings, or to reach such conclusions, are denied on the basis of the facts found and stated in connection with this decision.

One of the opponents objected to the notice as being improper in that there was no press release, no copies mailed to interested persons or the Governors of the states affected; and no affidavit or certificate filed to give proof of notice. The rules of practice and procedure governing proceedings to formulate marketing agreements and orders provide for publication of a notice of hearing in the FEDERAL REGISTER (7 CFR 900.4 (b) (1) (i)) and that such publication alone shall be sufficient and no press release or mailed notices are required (7 CFR 900.4 (b) (2)) and that, under such circumstances, a certificate is not necessary (7 CFR 900.4 (c)) The Hearing Clerk's record discloses, however, that copies of the notice were forwarded to all handlers and growers whose addresses were known to the Department and to the Governors of California and Arizona. Certificates indicating proof of notice and that a press release was issued are also in the record of the Hearing Clerk.

Objection was also made to the amendments to the proposed marketing order on olives presented by the proponents (Exhibit 12 in the hearing records) on the ground that such amendments were not published in the notice in the FEDERAL REGISTER. The notice (18 F. R. 2176) states that "the public hearing is for the purpose of receiving evidence with respect to * * * proposed additions to such provisions, and to any appropriate modifications thereof."

A careful review of the proposals discloses only slight revisions, omissions, or rewordings, all of which are within the purpose, scope and substance of the proposed provisions set forth in the notice. The hearing record indicates the wisdom of adopting some changes and modifications suggested by the opponents, as well as the proponents, and the agreement and order in its proposed final form differs from both the original provisions and the amendments. The proposed provisions submitted at the hearing were not amendments as the term is used in the rules of practice and procedure but rather modifications of the provisions published.

General findings. (a) The marketing agreement and the order, and all the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(b) The marketing agreement and the order, regulate the handling of olives grown in the State of California in the same manner as, and are applicable to persons in the respective classes of industrial and commercial activity specified in, the marketing agreement upon which hearings have been held;

(c) There are no differences in the production and marketing of olives grown in the production area covered by the marketing agreement and order that make necessary different terms and provisions applicable to different parts of such area;

(d) The marketing agreement and the order, are limited in their application to the smallest regional production area which is practicable, consistently with carrying out the declared policy of the act; and the issuance of several orders applicable to any subdivision of the production area would not effectively carry out the declared policy of the act; and

(e) All handling of olives which are grown in the production area is in the current of interstate or foreign commerce, or directly burdens, obstructs, or affects such commerce.

Recommended marketing agreement and order The following proposed marketing agreement and order[1] are recommended as the detailed means by which the aforesaid conclusions may be carried out:

DEFINITIONS

§ 915.1 *Secretary.* "Secretary" means the Secretary of Agriculture of the United States, or any other officer or employee of the United States Department of Agriculture who is, or who may hereafter be, authorized to exercise the powers or to perform the duties of the Secretary of Agriculture.

§ 915.2 *Act.* "Act" means Public Act No. 10, 73d Cong., as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.).

§ 915.3 *Person.* "Person" includes an individual, partnership, corporation, association, and any other business unit.

§ 915.4 *Area.* "Area" means the State of California.

§ 915.5 *Olives.* "Olives" means the fruit of any variety of the species olea europaea, in any form, grown within the area.

§ 915.6 *Variety group 1.* "Variety group 1" shall include the following varieties: Aghizi Shami, Amellau, Ascolano, Ascolano dura, Azapa, Balady, Barouni, Carydolia, Cucco, Gigante di Cerignola, Gordale, Grossane, Jahlut, Polymorpha, Prunara, Ropades, Sevillano, Saint Agostino, Tafahi, and Touffahi.

§ 915.7 *Variety group 2.* "Variety group 2" shall include the following varieties: Manzanillo, Mission, Nevadillo, Obliza, Redding Picholine and all other varieties not included in Variety Group 1.

§ 915.8 *Natural condition olives.* "Natural condition olives" means olives in their fresh-harvested state prior to being placed in water or any curing or preserving solution including, but not limited to, acid, alkaline, or salt solutions, or agents.

§ 915.9 *Canning olives.* "Canning olives" means natural condition olives acquired by a handler which he considers suitable for canning.

§ 915.10 *Canned olives.* "Canned olives" means olives which have been placed in hermetically sealed containers and heat-sterilized under pressure, either whole, or pitted and not divided into more than four parts exclusive of the pits.

§ 915.11 *Can.* To "can" means to convert olives or to cause them to be converted into canned olives for commercial purposes.

§ 915.12 *Size.* "Size" means the number of whole olives contained in a pound.

§ 915.13 *Size-grade.* "Size-grade" means to classify olives, or to cause olives to be classified, into the separate size designations established by the committee with the approval of the Secretary.

§ 915.14 *Acquire.* "Acquire" means to obtain physical possession of natural condition olives which have been harvested or to have physical possession thereof.

§ 915.15 *Ship.* "Ship" means to move, or cause to be moved, canned olives from the cannery (except as a common or contract carrier of canned olives owned by another person) The term ship shall not include the movement of canned olives from the cannery to a place of storage within the area for the purpose of storage, if the committee has first been advised of such movement, but the term ship shall include the movement of such canned olives from such places of storage.

§ 915.16 *Handle.* "Handle" means (a) to size-grade olives; (b) to can olives; or (c) to ship canned olives.

§ 915.17 *Handles.* "Handler" means any person who handles olives.

§ 915.18 *Canner.* "Canner" means any handler who cans olives, or who causes olives to be canned.

§ 915.19 *Producer.* "Producer" means any person engaged in a proprietary capacity in the growing of olives.

§ 915.20 *Committee.* "Committee" means the Olive Administrative Committee established by this subpart.

§ 915.21 *Council.* "Council" means a District Olive Advisory Council established by this subpart.

[1] The provisions identified with an asterisk (*) apply only to the proposed marketing agreement and not to the proposed order.

§ 915.22 *Canning quota.* "Canning quota" means the number of cases of canned whole olives, or the equivalent of whole olives in other forms as such equivalent may be determined by the committee with the approval of the Secretary, that a canner may can, from olives harvested during any crop year, pursuant to this subpart.

§ 915.23 *No. 1 tall can.* "No. 1 tall can" means a cylindrical tin can 301 x 411 (i. e., 3 1/16 inches in diameter and 4 11/16 inches in height)

§ 915.24 *Case.* "Case" means 48 No. 1 tall cans, or the equivalent thereof as determined by the committee with the approval of the Secretary.

§ 915.25 *Crop year* "Crop year" means the 12-month period beginning September 1 of any year and ending August 31 of the following year, both dates inclusive.

§ 915.26 *Part and subpart.* "Part" means the order regulating the handling of olives grown in California and all rules and regulations, and supplementary orders issued thereunder. This order regulating the handling of olives grown in California shall be a "subpart" of such part.

§ 915.27 *District.* "District" means any of the following geographical areas in the State of California:

(a) "District 1" shall include the Counties of Kings, Tulare, Inyo, San Luis Obisbo, Kern, San Bernardino, Santa Barbara, Ventura, Los Angeles, Orange, Riverside, San Diego, and Imperial.

(b) "District 2" shall include the Counties of Eldorado, Yolo, Sacramento, Contra Costa, San Francisco, Alameda, Santa Clara, Santa Cruz, Monterey, San Benito, Fresno, Madera, Merced, Mariposa, Stanislaus, San Joaquin, Calaveras, Amador, Alpine, Tuolumne, Mono, San Mateo, and those portions of the Counties of Placer, Nevada, and Sierra lying south of U. S. Highway 40.

(c) "District 3" shall include the Counties of Plumas, Butte, Yuba, Sutter, and those portions of the Counties of Placer, Nevada, and Sierra lying north of U. S. Highway 40, and those portions of the Counties of Colusa and Glenn lying east of the Sacramento River.

(d) "District 4" shall include the Counties of Solano, Napa, Marin, Sonoma, Lake Tehama, Mendocino, Humboldt, Trinity, Del Norte, Siskiyou, Modoc, Shasta, Lassen, and those portions of the Counties of Colusa and Glenn lying west of the Sacramento River.

DISTRICT OLIVE ADVISORY COUNCILS

§ 915.28 *Establishment and membership.* A District Olive Advisory Council consisting of 8 members is hereby established for each district.

§ 915.29 *Eligibility.* No person shall be selected or continue to serve as a member of a council who is not a producer in the district which he represents. No person shall serve concurrently as a member of more than one council. No producer, who is also a canner, and no regular employee, officer, or agent of such producer, shall be nominated, selected, or continue to serve as a member of a council who does not produce at least 80 percent of the olives canned by or for him.

§ 915.30 *Term of office.* One-half of the members of a council initially selected shall hold office for a period beginning on a date to be designated by the Secretary and ending on April 15, 1954, and until the respective successors are selected and have qualified. One-half of the members of a council initially selected shall hold office for a period beginning on a date to be designated by the Secretary and ending on April 15, 1955, and until their respective successors are selected and have qualified. The persons to hold office as members for the respective terms of office specified above shall be determined by the drawing of lots by those persons selected by the Secretary as members and the results of such drawings shall be filed promptly with the Secretary. The terms of office of succeeding members of a council shall be two years, but each such member shall continue to serve until his respective successor is selected and has qualified.

§ 915.31 *Nomination*—(a) *Initial members.* Nominations for each of the initial members of each council may be submitted to the Secretary by producers, and such nominations may be made by means of meetings of groups of such persons in each district. A producer may vote in each district in which he grows olives. Such nominations shall be filed with the Secretary promptly after the effective date of this subpart, and may be filed prior thereto.

(b) *Successor members.* Nominations for successor members of the councils shall be made as set forth in the following subparagraphs:

(1) Each council shall give reasonable advance notice of a meeting or meetings, of producers for the purpose of making nominations for member positions to be filled on the council. Such notice shall be given through publicity in newspapers having general circulation in the district and may be given through other channels, if the council deems it desirable.

(2) Only producers in the respective district, for which nominations are to be made, may nominate, or vote for, any member for such district. One or more eligible producers for each member position to be filled on a council may be proposed for nomination. Each producer shall cast only one vote with respect to each position for which nomination is to be made. A producer may vote in each district in which he grows olives. The person receiving the most votes with respect to each member position shall be the person to be certified to the Secretary as the nommee for each such position.

(3) Each vote cast shall be on behalf of the person voting, his agents, subsidiaries, affiliates and representatives. The result of each ballot at each such meeting shall be announced at the meeting. Voting at each meeting shall be by secret ballot, and each vote shall be cast in person.

(4) Each such nomination shall be certified by the council to the Secretary on or before April 1, immediately preceding the termination of the term of office of the member position for which nomination is certified.

§ 915.32 *Selection.* The Secretary shall select members of the council for each district in the numbers specified in § 915.28 and with the qualifications specified in § 915.29. Such selections may be made from the nominations certified pursuant to § 915.31 or from other producers, but each such selection shall be made on the basis of the respective producer representations and qualifications set forth in § 915.29.

§ 915.33 *Failure to nominate.* In the event nomination for a member position of a council is not submitted pursuant to § 915.31, the Secretary may select such member without regard to nomination, but such selection shall be on the basis of the respective producer representations and qualifications set forth in § 915.29.

§ 915.34 *Acceptance.* Each person selected by the Secretary as a member of a council shall, prior to serving on the council, qualify by filing with the Secretary a written acceptance promptly after being notified of his selection.

§ 915.35 *Vacancies.* To fill any vacancy occasioned by the failure of any person selected as a member of a council to qualify, or in the event of removal, resignation, disqualification, or death, of any member, a successor for each person's unexpired term shall be nominated and selected in the manner set forth in §§ 915.31 and 915.32, insofar as such provisions are applicable. If nomination to fill any vacancy is not filed within 20 calendar days after such vacancy occurs, the Secretary may fill such vacancy without regard to nomination, but on the basis of the applicable representations and qualifications set forth in § 915.29.

§ 915.36 *Meetings.* Each council shall give reasonable advance notice of each meeting by mail addressed to each member, and such notice shall be given as widespread publicity as is practicable. Notices of meetings shall specify the time, places, and general purposes thereof. A council shall give the Secretary the same notice of meetings as it gives to its members.

§ 915.37 *Duties.* Each council shall have the following duties:

(a) To conduct meetings for the purpose of making nominations to fill vacancies on the council and certifying such nominations to the Secretary;

(b) To make nominations for producer members and alternate producer members of the committee;

(c) To make recommendations to the committee concerning the marketing policy;

(d) To assist the committee in estimating the production by size of each variety of canning olives during each crop year;

(e) To disseminate among producers, handlers, and other interested persons

information concerning the activities of the council and of the committee;

(f) To assist the committee in such other operational matters as it deems proper or as the committee may request;

(g) To consult with and solicit the advice and assistance of informed and experienced persons such as canners, handlers and other members of the olive industry.

§ 915.38 *Procedure.* All decisions of the councils shall be by majority vote of the members present. The presence of 6 members shall be required to constitute a quorum.

OLIVE ADMINISTRATIVE COMMITTEE

§ 915.39 *Establishment and membership.* An Olive Administrative Committee consisting of 16 members is hereby established to administer the terms and provisions of this subpart. Eight members shall be producers with the same qualifications as those required for council members. Two producer members shall be selected from each of the 4 districts. Three members shall represent cooperative marketing associations of producers engaged in the business of canning olives and five members shall represent canners other than cooperative marketing associations. Each person representing canners shall be either a canner of olives or an employee or agent of a canner of olives, actually engaged in the canning of olives during the period of his service on the committee. For each member of the committee, there shall be an alternate member, who shall have the same qualifications as the member for whom he is the alternate.

§ 915.40 *Term of office.* Members and alternate members of the committee shall each serve for terms of one year beginning on June 1 and ending on May 31 of the following year, but each such member and alternate member shall continue to serve until his respective successor is selected and has qualified: *Provided,* That the term of office of initial members and alternate members shall begin on a date to be designated by the Secretary.

§ 915.41 *Nominations*—(a) *Producer nominees.* The members of each council shall nominate from among the members of such council two persons for member positions on the committee and an alternate for each such person. Nominations for initial members and alternate members of the committee shall be certified by the councils to the Secretary promptly after the selection of the councils. Nominations for successor members and alternate members of the committee shall be certified by the councils to the Secretary annually on or before May 5, preceding the term for which they are to be selected.

(b) *Canner nominees.* Nominations for each of the initial members and alternate members of the committee to represent cooperative marketing associations and other than cooperative marketing associations may be submitted to the Secretary by cooperative marketing organizations and other than cooperative organizations respectively and such nominations may be made by means of meetings of groups of such persons. Such nominations shall be filed with the Secretary promptly after the effective date of this subpart. Nomination meetings held subsequent to the initial meeting shall be called and conducted by the committee not later than May 1 of each year. Balloting at both initial and subsequent meetings for the election of nominees for both cooperative marketing associations and other than cooperative marketing associations shall be on the basis of majority vote of those present and voting in each of the two groups. Each canner shall only vote for members and alternate members to represent his group. Each canner shall cast only one vote in each balloting with respect to each position for which nomination is to be made.

§ 915.42 *Selection.* The Secretary shall select members and alternate members of the committee in the numbers and with the qualifications specified in § 915.39. Such selections may be made by him from the nominations submitted pursuant to § 915.41 or from other eligible producers and canners, but such selection shall be made on the basis of representations and qualifications set forth in this subpart.

§ 915.43 *Failure to nominate.* In the event any of the groups entitled so to do shall fail to submit nominations within 20 calendar days after the time specified in § 915.41, the Secretary may select the particular members or alternate members of the committee without regard to nominations, but such selections shall be on the basis of the applicable producer and canner qualifications set forth in § 915.39.

§ 915.44 *Acceptance* Each person selected by the Secretary as a member, or as an alternate member, of the committee, shall, prior to serving on the committee, qualify by filing with the Secretary a written acceptance promptly after being notified of such selection.

§ 915.45 *Alternate members* An alternate for a member of the committee shall act in the place and stead of such member (a) during his absence, and (b) in the event of his removal, resignation, disqualification, or death, until a successor for such member's unexpired term has been selected and has qualified.

§ 915.46 *Vacancies.* To fill any vacancy occasioned by the failure of any person selected as a member, or as an alternate member of the committee to qualify, or in the event of the removal, resignation, disqualification, or death of any member or alternate member, a successor for such person's unexpired term shall be nominated and selected in the manner set forth in §§ 915.41 and 915.42 insofar as such provisions are applicable. If nomination to fill any such vacancy is not made within 20 calendar days after such vacancy occurs, the Secretary may fill such vacancy without regard to nominations, but on the basis of the applicable representations and qualifications set forth in § 915.39.

§ 915.47 *Compensation and expenses.* The members of the councils, the committee and the alternate members of the committee when acting as members shall serve without compensation, but shall be allowed their necessary expenses as approved by the committee.

§ 915.48 *Powers.* The committee shall have the following powers:

(a) To administer the terms and provisions of this subpart;

(b) To make rules and regulations to effectuate the terms and provisions of this subpart;

(c) To receive, investigate, and report to the Secretary, complaints of violations of this subpart;

(d) To recommend to the Secretary amendments to this subpart.

§ 915.49 *Duties.* The committee shall have, among others, the following duties:

(a) To act as intermediary between the Secretary and any producer, or handler;

(b) To keep minutes, books, and other records, which shall clearly reflect all of its acts and transactions, and such minutes, books, and other records shall be subject to examination by the Secretary at any time;

(c) To make, subject to approval by the Secretary, scientific and other studies, and assemble data on the producing, handling, shipping, and marketing conditions relative to olives, which are necessary in connection with the performance of its official duties;

(d) To submit to the Secretary such available information with respect to olives as he may request, or as the committee may deem desirable and pertinent;

(e) To select, from among its members, a chairman and other officers, and to adopt such rules and regulations for the conduct of its business as it may deem advisable;

(f) To appoint such other officers or employ such other persons as it may deem necessary, and to determine the salaries and define the duties of each such person;

(g) Prior to the beginning of each crop year, and not later than August 15 prior to such crop year, to submit to the Secretary a budget of the anticipated expenses of the committee and the councils and the proposed assessments for such crop year, together with a report thereon: *Provided,* That, with respect to the initial crop year, the committee shall file such recommendation and supporting data with the Secretary as soon as practicable after the effective date of this subpart;

(h) To cause the books of the committee to be audited by one or more certified public accountants at least once each crop year, and at such other times as the committee may deem necessary or as the Secretary may request, and the report of each such audit shall show, among other things, the receipts and expenditures of funds, and at least two copies of each such audit report shall be submitted to the Secretary;

(i) To prepare monthly statements of its financial operations and make such statements, together with the minutes of its meetings, available at the office of the committee for inspection by any producer or handler, and to submit copies

of such statements and minutes to the Secretary.

(j) To estimate the production by size of each variety of canning quality olives during each crop year;

(k) To give reasonable advance notice of each meeting by mail addressed to each member, and such notice shall be given as widespread publicity as practicable. The same notice of meetings given to members shall be given to the Secretary.

§ 915.50 *Obligation.* Upon the removal, resignation, disqualification, or expiration of the term of office of any member or alternate member, such member or alternate member shall account for all receipts and disbursements and deliver to his successor, to the committee, or to a designee of the Secretary all property (including, but not limited to, all books and records) in his possession or under his control as member or alternate member, and he shall execute such assignments and other instruments as may be necessary or appropriate to vest in such successor, committee, or designee full title to such property and funds, and all claims vested in such member or alternate member. Upon the death of any member or alternate member of the committee, full title to such property, funds, and claims vested in such member or alternate member shall be vested in his successor, or until such successor has been selected and has qualified, in the committee.

§ 915.51 *Voting procedure.* All decisions of the committee reached at an assembled meeting shall be by majority vote of the members present. Nine affirmative votes shall be required to approve any action of the committee: *Provided,* That any decision with respect to volume regulations shall require the concurring vote of at least one producer member from each district. The committee may vote by mail, telephone, or telegraph, but any proposition to be so voted upon first shall be explained accurately, fully and identically, by mail, telephone or telegraph to all members. Sixteen concurring votes shall be required to reach a decision by mail, telephone or telegraph. Any vote by telephone shall be confirmed promptly in writing.

MARKETING POLICY

§ 915.52 *Report of marketing policy.* Prior to the beginning of each crop year, the committee shall prepare and submit to the Secretary a report setting forth the marketing policy with respect to regulations which it believes would effectuate the declared policy of the act. Such report shall include the data and information used by the committee in formulating such marketing policy. In developing the marketing policy, the committee shall give consideration to the following factors:

(a) The estimated number of cases of canned olives by size of each variety held by handlers;

(b) The estimated quantity by size of each variety of olives held by handlers as suitable for canning;

(c) The estimated total production of all olives in such crop year;

(d) The estimated production by size of each variety of canning olives in such crop year;

(e) The estimated quantity of canned olives marketed in recent years;

(f) The current prices being received for canned olives by sizes and by varieties;

(g) The current prices received by producers for canning olives, oil olives, and processing olives other than canning olives;

(h) The trend and level of consumer income;

(i) The estimated marketing requirements including normal carryout, for canned olives in such crop year, segregated by the number of cases of each size of each variety, and the total number of cases for Variety Group 1 and Variety Group 2;

(j) The estimated marketing requirements in cases of each size of each variety of olives which should be canned from olives harvested during such crop year, and the total number of cases for Variety Group 1 and Variety Group 2;

(k) Such other factors as may have a bearing on the marketing of olives.

§ 915.53 *Policy meeting.* The committee shall hold a meeting, for the purpose of formulating and adopting the marketing policy for any crop year, not later than August 15, preceding the beginning of such crop year: *Provided,* That with respect to the initial crop year, the committee shall hold a meeting for such purpose as soon as practicable after the effective date of this subpart.

§ 915.54 *Submission.* The marketing policy report for any crop year shall be submitted to the Secretary promptly after the holding of each policy meeting. Such report shall include the recommendations of the councils.

§ 915.55 *Modifications.* In the event the committee subsequently deems it advisable to modify such policy, because of changed demand or supply conditions, it shall hold a meeting for that purpose, and file a report thereof with the Secretary promptly after the holding of such meeting, which report shall show each modification, the reasons and bases therefor, as well as the recommendation of the councils.

§ 915.56 *Detailed record.* The committee shall file with its report to the Secretary a detailed record of that portion of its meeting, or meetings, relative to its marketing policy.

§ 915.57 *Notice.* The committee shall give reasonable advance notice to producers and handlers of each meeting to consider a marketing policy or any modifications thereof, and each such meeting shall be open to them. Such notice shall be given through publicity in newspapers having general circulation in the area, and may be given through other channels, if the committee deems it desirable. The committee also shall give similar notice to producers and handlers of each marketing policy report, or modification thereof, filed with the Secretary. Copies of all such reports shall be made available for examination by any producer or handler.

VOLUME REGULATIONS

§ 915.58 *Recommendations by the committee—*(a) *Canning regulation.* The committee shall recommend to the Secretary that the canning of any size, or sizes, of any variety, or varieties, of olives harvested during any crop year, be limited or prohibited, if it finds, on the basis of its marketing policy, or other available information, that such regulation will tend to effectuate the declared policy of the act. The committee may recommend different limitations or prohibitions for each size of each variety. Any recommendation for the initial crop year shall be filed with the Secretary as soon as practicable after the effective date of this subpart. The first recommendation, if any, in each year subsequent to the initial crop year shall be filed with the Secretary on or before September 1.

(b) *Shipping regulation.* The committee may recommend to the Secretary that the quantity of canned olives which may be shipped during the crop year be limited, if it finds that the total quantity of olives permitted to be canned from olives harvested during such crop year pursuant to canning regulations, will exceed the total estimated marketing requirements for such olives. The committee may recommend a limitation for Variety Group 1 which differs from the limitation recommended for Variety Group 2. A regulation shall not be recommended for a Variety Group if the estimated marketing requirements for that Variety Group from olives harvested during the crop year exceeds the quantity of olives of that Variety Group permitted to be canned during such crop year. The committee shall make its first recommendation for a shipping regulation, if any, on or before December 1 of each crop year. The committee shall give consideration to recommending the modification, suspension, or termination of any such regulation when the harvesting season for olives for canning has been substantially completed.

(c) *Modification, suspension, or termination.* In the event the committee deems it desirable to modify, suspend, or terminate any regulation established pursuant to § 915.59, it shall so recommend to the Secretary.

(d) *Information.* The committee shall file with its recommendations to the Secretary the information on which its recommendations are based, including information with respect to the factors affecting the supply and demand for olives by sizes and varieties thereof, and such additional information as may be requested by the Secretary. The committee shall also file with the Secretary with such recommendations a detailed record of that portion of its meeting, or meetings, relating to such recommendations.

(e) *Notification.* The committee shall give reasonable advance notice to producers and handlers, of each meeting to consider recommendations pursuant to § 915.58, and each such meeting shall be open to them. Such notice shall be given through publicity in newspapers having general circulation in the area, and may be given through other channels if the committee deems it desirable.

The committee also shall give similar notice to producers and handlers, of all such recommendations submitted to the Secretary.

§ 915.59 *Establishment of regulations*—(a) *Canning regulation.* Whenever the Secretary finds, from the recommendation and supporting information submitted by the committee, or from other available information, that to limit the canning of a part or all of any size, or sizes, of any variety, or varieties of olives will tend to effectuate the declared policy of the act, he shall establish such canning regulation. Such regulation may establish different limitations or prohibitions for each size of each variety. Such regulation shall designate the percentage of each size of each regulated variety of canning olives harvested during the crop year, which may be canned by handlers.

(b) *Shipping regulation.* Whenever the Secretary finds, from the recommendation and supporting information submitted by the committee, or from other available information, that to limit the shipment, during the crop year, of the quantity of canned olives permitted to be canned from olives harvested during such crop year pursuant to canning regulations, will tend to effectuate the declared policy of the act, he shall establish such shipping regulation. Such regulation may establish a limitation for Variety Group 1 which differs from the limitation established for Variety Group 2. Such regulation shall designate, for each Variety Group, the percentage which each handler may ship during the crop year, of the total quantity of such Variety Group which each handler may can during such crop year pursuant to canning regulations. A shipping regulation shall not be established for a Variety Group if the estimated marketing requirements for that Variety Group from olives harvested during the crop year exceed the quantity of olives of that Variety Group permitted to be canned during such crop year. A shipping regulation shall not be established for either Variety Group if the estimated marketing requirements for both Variety Groups from olives harvested during the crop year exceed the quantity of olives of both Variety Groups permitted to be canned during such crop year.

(c) *Modification, suspension, or termination.* Whenever the Secretary finds from the recommendation and supporting information submitted by the committee, or from other available information, that the modification, suspension, or termination of a regulation will tend to effectuate the declared policy of the act, he shall modify, suspend or terminate such regulation.

(d) *Notification.* The Secretary shall notify the committee promptly of the establishment of each regulation and of each modification, suspension, or termination of a regulation. The committee shall give prompt notice thereof to producers and handlers.

(e) *Limitation*—(1) *Canning.* No person shall can olives in excess of his canning quotas, computed in accordance with §§ 915.61 (a) and 915.63.

(2) *Shipping.* No person shall ship any canned olives in excess of his shipping quota, computed in accordance with paragraph (b) of § 915.61.

CANNING AND SHIPPING QUOTAS

§ 915.60 *Certification.* When a regulation limiting the canning of olives has been established by the Secretary pursuant to paragraph (a) of § 915.59 and a handler acquires, within the area, natural condition olives on which he desires to obtain a canning quota, he shall apply to the committee in the manner specified by it for a certificate covering such olives. Such handler shall, within the area, size-grade such olives, which may be by sample, under the supervision of the committee, or under the supervision of an agency designated by it with the approval of the Secretary. The committee shall issue, or cause to be issued, to such handler a certificate showing the quantity of each size of each variety of canning olives contained in such size-graded olives. A copy of the certificate shall be furnished to the producer of such olives or other person who delivered the olives. No handler shall offer for certification olives covered by a previously issued certificate.

§ 915.61 *Computation.*—(a) *Canning quota.* The committee shall compute, from the information contained in each certificate issued pursuant to § 915.60, the quantity of olives of each size of each variety covered by such certificate which may be canned. This computation shall be made by multiplying the percentage of each size of each variety established by the Secretary as the percentage of such size of such variety which may be canned from olives harvested during the crop year, by the quantity of canning olives of such size and such variety shown on the certificate. The quantity so computed for each size of each variety shall be multiplied by a conversion factor, established by committee with the approval of the Secretary to convert a quantity of olives into its equivalent in cases, and the number of cases resulting from such calculation shall be the canning quota for each variety and size shown on the certificate.

(b) *Shipping quota.* When a regulation limiting the shipping of canned olives has been established by the Secretary pursuant to paragraph (b) of § 915.59, a handler shall compute his shipping quota by multiplying the canning quotas for each Variety Group by the percentage established by the shipping regulation for such Variety Group. Canning quota which a handler has obtained by transfer pursuant to § 915.63 shall be included only by the handler receiving the transfer in calculating his shipping quota.

§ 915.62 *Notification.* The committee shall notify each handler promptly of the computation of each canning quota made pursuant to § 915.61.

§ 915.63 *Transfer* A canning quota, or any portion thereof, may, pursuant to rules and regulations established by the committee, be transferred from one handler to another handler only if a quantity of uncanned canning olives of the same variety and size, equal to the quantity, variety, and size of the canning quota transferred, are also transferred to the receiving handler.

§ 915.64 *Procedural rules.* The committee may establish, with the approval of the Secretary, additional procedural rules, not inconsistent with this subpart, which are deemed necessary in carrying out the provisions of §§ 915.60, 915.61, 915.62 and 915.63.

REPORTS AND RECORDS

§ 915.65 *Reports.* Each canner shall, upon request of the committee, file promptly with the committee a certified report of all canning olives in process for canning and canned olives which were held by him on July 1 of any crop year, together with an estimate of the quantity which will be disposed of during July and August, which report also shall show the quantity of each size of each variety.

§ 915.66 *Other reports.* Upon request of the committee, with the approval of the Secretary, each canner shall file with it a certified report for any period as specified showing: (a) The quantity of olives of each size of each variety canned; (b) the quantity of each size of each variety of canned olives held by him and the location thereof, at the end of such period; and (c) cumulative totals of each size of each variety canned from the beginning of the then current crop year to and including the end of the period for which the report is made. Each periodic report shall be filed not later than thirty days following the period which is covered by such report. Also, upon the request of the committee, with the approval of the Secretary, each canner shall furnish to the committee such other reports and information as may be necessary to enable the committee to exercise its powers and perform its duties under this subpart.

§ 915.67 *Confidential information.* All reports and records furnished or submitted by canners to the committee shall be received by and at all times kept under the custody or control of one or more employees of the committee, who shall disclose to no person, except the Secretary upon request therefor, or to the committee in connection with its investigations of alleged violations, data or information obtained or extracted therefrom which would constitute a trade secret or the disclosure of which might affect the trade position, financial condition, or business operations of the particular canner from whom received: *Provided,* That the committee may require such an employee to disclose to it, or to any person designated by it or by the Secretary, information and data of a general nature, compilations of data affecting canners as an entire group, and any data affecting one or more canners so long as the identity of the individual canners involved is not disclosed.

§ 915.68 *Records.* Each canner shall maintain such records of all olives received by him as may be prescribed by the committee. Such records shall include, but not be limited to, the quantity of canning olives of each size of each variety acquired from each person and

the name and address of each such person, total receipts, and disposition of each size of each variety which he handled.

§ 915.69 *Verification of reports.* For the purpose of checking and verifying reports filed by handlers, the committee, through its duly authorized representatives, shall have access to any handler's premises during regular business hours, and shall be permitted at any such times to inspect such premises and any olives held by such handler, and any and all records of the handler with respect to the holding or disposition of olives by him. Each handler shall furnish all labor and equipment necessary to make such inspections. Each handler shall maintain records which will permit accurate identification of olives held by him or theretofore disposed of. Insofar as it is practicable and consistent with the carrying out of the provisions of this subpart, all data and information obtained or received through checking and verification of reports shall be treated as confidential information.

EXPENSES AND ASSESSMENTS

§ 915.70 *Expenses.* The committee is authorized to incur such expenses as the Secretary finds are reasonable and likely to be incurred by it during each crop year for the maintenance and functioning of the committee and the councils. The funds to cover such expenses shall be obtained by levying assessments as provided in § 915.71.

§ 915.71 *Assessments.* Each handler shall, with respect to all canned olives canned by him during each crop year, pay to the committee, upon demand, his pro rata share of the expenses which the Secretary finds, pursuant to § 915.70, will be incurred by the committee during each crop year. Each handler's pro rata share of such expenses shall be equal to the ratio between the total canned olives canned by such handler and the total canned olives canned by all handlers during the same crop year. The Secretary shall fix the rate of assessment to be paid by each handler on the basis of a specified rate per case. No assessment shall be levied on canned olives canned from olives havested prior to September 1, 1953. At any time during or after a crop year, the Secretary may increase the rate of assessment to apply to all canned olives canned during such crop year to obtain sufficient funds to cover any later finding by the Secretary relative to the expenses of the committee. Each handler shall pay such additional assessment to the committee upon demand. In order to provide funds to carry out the functions of the committee and the councils, the committee may accept advance payments from any handler to be credited toward such assessments as may be levied pursuant to this section against the respective handler during the crop year. The payment of assessments for the maintenance and functioning of the committee and the councils, as provided for herein, may be required throughout the period this subpart is in effect and irrespective of whether particular provisions thereof are suspended and become inoperative.

§ 915.72 *Accounting.* If, at the end of any crop year, the assessments collected for such crop year exceed the expenses incurred with respect to such crop year, each handler's share of such excess shall be credited to him against the operations of the following crop year, unless such handler demands payment thereof, in which case his share shall be paid to him.

§ 915.73 *Funds.* All funds received by the committee pursuant to the provisions of this subpart shall be used solely for the purposes authorized in this subpart and shall be accounted for in the manner provided in this subpart. The Secretary may, at any time, require the committee and its members and alternate members to account for all receipts and disbursements.

MISCELLANEOUS PROVISIONS

§ 915.74 *Personal liability.* No member or alternate member of the committee or the councils or any employee or agent thereof shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any handler or any person, for errors in judgment, mistakes, or other acts either of commission or omission, as such member, alternate member, employee, or agent, except for acts of dishonesty.

§ 915.75 *Separability.* If any provision of this subpart is declared invalid or the applicability thereof to any person, circumstance, or thing, is held invalid, the validity of the remainder of this subpart or the applicability thereof to any other person, circumstance, or thing, shall not be affected thereby.

§ 915.76 *Derogation.* Nothing contained in this subpart is, or shall be construed to be, in derogation or in modification of the rights of the Secretary or of the United States to exercise any powers granted by the act or otherwise, or, in accordance with such powers, to act in the premises whenever such action is deemed advisable.

§ 915.77 *Duration of immunities.* The benefits, privileges, and immunities, conferred upon any person by virtue of this subpart shall cease upon the termination of this subpart, except with respect to acts done under and during the existence of this subpart.

§ 915.78 *Agents.* The Secretary may, by a designation in writing, name any person, including any officer or employee of the United States Government, or name any bureau or division in the United States Department of Agriculture, to act as his agent or representative in connection with any of the provisions of this subpart.

§ 915.79 *Effective time.* The provisions of this subpart, as well as any amendments to this subpart, shall become effective at such time as the Secretary may declare, and shall continue in force until terminated, or during suspension, in one of the ways specified in § 915.80.

§ 915.80 *Suspension or termination.* (a) The Secretary may, at any time, terminate the provisions of this subpart by giving at least one day's notice by means of a press release or in any other manner which he may determine.

(b) The Secretary shall terminate or suspend the operation of any or all of the provisions of this subpart, whenever he finds such provisions do not tend to effectuate the declared policy of the act.

(c) The Secretary shall terminate the provisions of this subpart at the end of any crop year whenever he finds that such termination is favored by a majority of producers who, during a representative period determined by the Secretary, were producers: *Provided,* That such majority have, during such representative period, produced for market more than 50 percent of the volume of such olives produced for market, but such termination shall be effective only if announced on or before August 15 of the then current crop year.

(d) The provisions of this subpart shall, in any event, terminate whenever the provisions of the act authorizing them cease to be in effect.

§ 915.81 *Proceedings after termination.* (a) Upon the termination of the provisions of this subpart, the members of the committee then functioning shall continue as joint trustees for the purpose of liquidating the affairs of the committee, of all funds and property then in the possession or under the control of the committee, including claims for any funds unpaid or property not delivered at the time of such termination. Action by said trusteeship shall require the concurrence of a majority of the said trustees.

(b) Said trustees shall continue in such capacity until discharged by the Secretary, shall, from time to time account for all receipts and disbursements and deliver all property on hand, together with all books and records of the committee and the joint trustees, to such person as the Secretary may direct; and shall, upon the request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title and right to all of the funds, property, and claim vested in the committee or the joint trustees pursuant to this subpart.

(c) Any person to whom funds, property or claims have been transferred or delivered by the committee or its members, pursuant to this section, shall be subject to the same obligations imposed upon the members of the said committee and upon said joint trustees.

§ 915.82 *Effect of termination or amendment.* Unless otherwise expressly provided by the Secretary, the termination of this subpart or any regulation issued pursuant thereto, or the issuance of any amendment to either thereof, shall not (a) affect or waive any right, duty, obligation, or liability which shall have arisen, or which may thereafter arise, in connection with any provision of this subpart, or any regulation issued thereunder; (b) release or extinguish any violation of this subpart or of any regulation issued thereunder; or (c) affect or impair any rights or remedies of the Secretary or any other person, with respect to any such violation.

§ 915.83 *Amendments.* Amendments to this subpart may be proposed from time to time, by any person or by the committee.

§ 915.84 *Right of the Secretary.* The members of the committee and councils, including successors and alternates thereof, and any agent or employee appointed or employed by the committee, shall be subject to removal or suspension at any time by the Secretary. Each and every order, regulation, determination, decision, or other act of each committee provided for in this subpart shall be subject to the continuing right of the Secretary to disapprove of the same at any time. Upon such disapproval, such disapproved action shall be deemed null and void except as to acts done in reliance thereon or in compliance therewith prior to such disapproval by the Secretary.

§ 915.85 *Counterparts.* This agreement may be executed in multiple counterparts, and when one counterpart is signed by the Secretary, all such counterparts shall constitute, when taken together, one and the same instrument as if all signatures were contained in one original.*

§ 915.86 *Additional parties.* After the effective date of this subpart, any handler may become a party to this agreement if a counterpart thereof is executed by him and delivered to the Secretary. This agreement shall take effect as to such new contracting party at the time such counterpart is delivered to the Secretary, and the benefits, privileges, and immunities conferred by this agreement shall then be effective as to such new contracting party.*

§ 915.87 *Order with marketing agreement.* Each contracting handler hereby requests the Secretary to issue, pursuant to the act, an order regulating the handling of olives by all handlers in the same manner as is provided in this subpart.*

Filed at Washington, D. C., this 20th day of July 1953.

[SEAL] ROY W. LENNARTSON,
Assistant Administrator Production and Marketing Administration.

[F. R. Doc. 53-6511; Filed, July 22, 1953; 8:55 a. m.]

[7 CFR Part 930]

[Docket No. AO-72-A13]

HANDLING OF MILK IN TOLEDO, OHIO, MARKETING AREA

NOTICE OF HEARING ON PROPOSED AMENDMENTS TO TENTATIVE MARKETING AGREEMENT AND TO ORDER, AS AMENDED

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure, as amended, governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of a public hearing to be held at the Hillcrest Hotel, Madison and Sixteenth Streets, Toledo, Ohio, beginning at 10:00 a. m., e. s. t., July 30, 1953, for the purpose of receiving evidence with respect to proposed amendments hereinafter set forth, or appropriate modifications thereof, to the tentative marketing agreement and to the order, as amended, regulating the handling of milk in the Toledo, Ohio, marketing area. These proposed amendments have not received the approval of the Secretary of Agriculture.

Amendments proposed by The Northwestern Cooperative Sales Association, Inc..

1. Delete § 930.50 (a) (1) and substitute therefor the following:

(1) Except as provided in subparagraph (2) of this paragraph, add to the basic formula price the following amount for the delivery period indicated:

Delivery period:	Amount
May and June	¢0.75
February, March, April, July	1.25
All others	1.70

2. Revise the supply-demand formula contained in § 930.50 (a) (2) (ii) by lowering all utilization standard figures by 8 points.

3. Delete the present butter cheese formula contained in § 930.51 (b) and substitute therefor the following:

(b) The price per hundredweight resulting from following formula:

(1) Multiply by 8.53 the average of daily prices per pound of cheese at Wisconsin Primary markets (Cheddars f. o. b. Wisconsin assembling points, cars or truck loads) as reported by USDA during the delivery period;

(2) Add 0.902 per pound of butter (92 score Chicago) and

(3) Subtract 34.3 cents.

4. In § 930.75 delete "as may be authorized by such producers" after the phrase "pursuant to § 930.70" and substitute therefor "as may be properly authorized by such cooperative association"

5. Consider the matter of pricing all cream and cream products at the Class I price level.

6. Amend § 930.71 so as to permit the market administrator to establish an amount to be paid based upon the current basic formula price and Class I differential less the usual deductions.

7. Consider any other changes in the pricing provisions of the order for the purpose of fixing minimum prices at a level which will reflect the economic and emergency conditions existing in the market.

8. Make such other changes as are necessary to make the order conform with any amendments thereto that may result from the hearing.

Copies of this notice of hearing and of the order as now in effect may be obtained from the Market Administrator, Room 19, Old Federal Building, Toledo, Ohio, or from the Hearing Clerk, Room 1353, South Building, United States Department of Agriculture, Washington 25, D. C., or may be there inspected.

Issued at Washington, D. C., this 20th day of July 1953.

[SEAL] ROY W. LENNARTSON,
Assistant Administrator.

[F. R. Doc. 53-6510; Filed, July 22, 1953; 8:54 a. m.]

[7 CFR Part 985]

[Docket No. AO-240]

HANDLING OF MILK IN MUSKEGON, MICHIGAN MARKETING AREA

DECISION WITH RESPECT TO PROPOSED MARKETING AGREEMENT AND PROPOSED ORDER

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.) and the applicable rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900), a public hearing was conducted at Muskegon, Michigan, on January 21-25, inclusive 1952, pursuant to notice thereof which was issued on January 5, 1952 (17 F. R. 161).

Upon the basis of the evidence introduced at the hearing and the record thereof the Assistant Administrator, Production and Marketing Administration, on June 17, 1952, filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision. This decision and notice of opportunity to file written exceptions thereto was published in the FEDERAL REGISTER on June 20, 1952 (17 F. R. 5583). A tentative decision was thereafter issued by the Secretary of Agriculture on May 8, 1953, and the notice of filing such tentative decision and opportunity to file written exceptions thereto was published in the FEDERAL REGISTER on May 13, 1953 (18 F. R. 2758, F. R. Doc. 53-4204).

Ruling on exceptions. Within the period reserved therefor, exceptions were filed to certain of the findings, conclusions and actions recommended by the Assistant Administrator, and to the tentative decision issued by the Secretary of Agriculture. In arriving at the findings, conclusions and regulatory provisions of this decision, such exceptions were carefully and fully considered in conjunction with the record evidence pertaining thereto. To the extent that the findings, conclusions and actions decided upon herein are at variance with any of the exceptions, such exceptions are overruled.

Preliminary statement. The material issues of record related to:

(1) Whether the handling of milk in the Muskegon, Michigan, marketing area is in the current of interstate commerce or directly burdens, obstructs, or affects interstate commerce;

(2) Whether the issuance of a marketing order for the Muskegon, Michigan, marketing area will tend to effectuate the declared policy of the act;

(3) The extend of the marketing area;

(4) What milk should be priced under an order;

(5) The classification of milk and milk products;

(6) The termination and level of class prices;

(7) The method of distributing payments to producers; and

(8) Administrative provisions.

Findings and conclusions. Upon the basis of evidence adduced at the hearing and on the record thereof, it is hereby found and concluded that:

(1) *Character of commerce.* The handling of milk produced for the Muskegon, Michigan, marketing area is in the current of interstate commerce or directly burdens, obstructs, or affects interstate commerce in milk and its products. Substantial interstate movement occurs with respect to milk and the milk products produced therefrom in the supply area for the Muskegon fluid milk market. Producers supplying milk to distributors in the Muskegon marketing area have their farms intermingled with those of dairy farmers who ship to milk plants which regularly supply Detroit. The Detroit supply area, in turn, includes regular shippers located in Indiana and Ohio.

Also intermingled with the producers who supply this Muskegon fluid milk market are a large number of producers who are shipping milk to milk plants at which evaporated milk, butter, cheese, sweet cream, and dried milk and skim milk products are manufactured for sale throughout the United States. In fact it is common practice during the season of flush milk production for farmers to deliver directly to manufacturing plants a part or all of their milk approved for fluid consumption.

The flow of milk into the Muskegon fluid market is affected by the relationship of that market's prices to the prices paid by competing fluid markets and by the manufacturing milk plants. Price relationships which interrupt or interfere with the distribution of milk in this region to the fluid and manufacturing markets in accordance with the relative value of milk for such outlets tend to burden, obstruct, and affect interstate commerce in milk and its products.

The excess milk over and above fluid requirements for the Muskegon market is normally transferred to plants which manufacture butter, evaporated milk, and nonfat dry milk solids for sale in interstate markets. This excess milk represents principally the necessary reserve of milk to meet fluctuation in daily and seasonal supplies and requirements. In 1951 the reserve milk transferred to manufacturing plants amounted to 17 percent of total receipts from producers.

Prices paid for milk by the fluid market, if out of line with prices paid by manufacturing plants, tend to increase or reduce this quantity of milk which is produced under the sanitary requirements of the fluid market but must be utilized in manufactured products. Therefore, the prices paid producers supplying the fluid market must be maintained in reasonable alignment with prices paid to manufacturing producers. It is also necessary to prevent unfair competitive pricing of the fluid milk market's surplus which is transferred to manufacturing plants at a price lower than the price offered by manufacturing plants to their regular producers.

There is also direct interstate movement of pasteurized, bottled milk from the marketing area. Lake vessels docking at both Muskegon and Grand Haven are supplied with milk by dealers in the respective cities. These vessels travel to ports in Illinois, Wisconsin, and Ohio.

(2) *Need for regulation.* Marketing conditions in the Muskegon area indicate that the issuance of a marketing order, such as that set forth herein, will tend to effectuate the declared policy of the act with respect to milk produced for the Muskegon fluid milk market.

Stability of marketing conditions and reasonable certainty of an adequate supply of pure and wholesome milk can be assured for the Muskegon marketing area only when all milk handlers in the area have reasonably equal costs of milk according to use and only when farmers supplying the market receive substantially the same prices per hundredweight for milk of equal quality.

These conditions do not now exist. A cooperative association of producers supplies all the milk used by dealers whose plants are located in Muskegon and Muskegon Heights and to one whose plant is located in a nearby village. The association sells milk on a class use basis whereby each of the distributors pays the same price for milk used in each of four specified classes. The association pools the sales returns, and each producer is paid the uniform price, subject only to variations in butterfat content and in seasonality of production.

A diversity of milk purchase plans is in effect at other plants in the area. One of the Grand Haven distributors testified that he purchased milk from producers on a "plant requirements" basis. He pays an announced price on all milk used at the plant, the bulk of such milk being bottled for sale as fluid milk and cream and smaller quantities being used in ice cream or for the manufacture of cottage cheese and similar products. Milk which this distributor cannot utilize in his plant is disposed of to milk manufacturing plants, and producers are paid the net utilization value of such milk. This distributor commonly depends upon purchases of supplemental milk in the fall season of low production and in the July and August resort season of peak sales. He does not pay producers in accordance with seasonality of production. Another handler in the area testified that he also purchased on a plant requirement basis but bought only negligible quantities of supplemental milk.

A further variety of milk purchasing plans is provided by dealers operating plants outside the marketing area but from which some milk is sold in the area. Testimony based upon a comparison of producers' settlement statements showed that producers were paid at an announced price on varying percentages of their short-season deliveries, that this percentage may be changed without prior notice to the producer, and that neither the settlement statement nor any other communication from the distributor enabled producers to determine precisely on what basis they were being paid for milk.

These variations in price plans and in net prices paid to producers reflect different raw material costs to the various dealers who are selling milk in the marketing area. A condition of unequal costs among the dealers may cause them to attempt to economize by reducing prices to producers. This in turn would tend to stimulate successive price reductions by competitors. This development is contrary to the interests of producers and over a period of time may jeopardize an adequate supply of milk. Alternatively, some handlers may attempt to achieve equality by reducing the quantity of their purchases of milk in order to obtain the highest possible proportion of the higher valued uses of milk. This reaction, however, may result in intermittent shortages of supply for the market.

If producers receive widely varying prices for their milk, they tend to shift around milk dealers and to shift in and out of the market. Such shifts may become sufficiently frequent as to jeopardize a dependable supply of pure and wholesome milk.

A marketing agreement and order program is needed to establish and maintain orderly marketing conditions throughout the marketing area. The auditing of the utilization of all milk received by handlers, the checking of butterfat tests and weights of all producer milk, and the publication of complete supply and use data for the market will aid in this objective by assuring producers that they will receive a proper accounting for their milk and by providing full information on market developments.

(3) *Marketing area.* The marketing area should be defined to include all of the territory within the outer boundaries of the cities of Muskegon and Grand Haven and the densely populated areas surrounding these cities. This may be accomplished by defining the marketing area to include all of the territory within the boundaries of Muskegon County and five townships in Ottawa County.

Producers who are members of the cooperative association which is the proponent of the order supply milk to the distributors serving customers in all portions of this area. The farms of these producing members are intermingled with those of nonmembers serving the other distributors in the area. Moreover there is direct competition between dealers whose plants are located in each locality within the marketing area and dealers whose plants are located at one or more other points within the area.

Health regulations are substantially similar throughout the area. The regulations of the State of Michigan provide a uniform minimum standard and these standards are modified only by somewhat more rigid requirements in a few localities. Several of these local health regulations have recently been revised to a point where there is now substantially complete acceptance in all portions of the marketing area of milk eligible for fluid use in any locality within the area.

The Muskegon marketing area has been defined on the basis of these interrelationships of supply and distribution.

The area so defined is a continuous, homogeneous area within which distributors should be charged the same price for milk used in a given class and producers be paid a uniform price.

One of the dealers whose plant is located in Grand Haven and a group of producers supplying that dealer contended that the territory served by this dealer should be excluded from the marketing area. However, much of his distributive business covers territory which is also served by handlers whose plants are located in Muskegon County. The handler's proposal that all the townships in Ottawa County be excluded disregards the fact that one Muskegon County handler has been serving the Spring Lake area, right up to the outskirts of Grand Haven, for over 20 years and that his routes have been extended into Grand Haven since health regulations were revised to permit such extension. The closeness of inter-dealer competition between Grand Haven and Muskegon is indicated by the fact that retail and wholesale prices in the two markets are usually identical.

Similarly, producers supplying a dealer whose plant is located in Whitehall and who distributes milk in that village, in Montague, and in two or three surrounding townships proposed that this area be excluded. Again, however, the intercompetition, both on the supply side and in distribution, between this plant and other plants in the marketing area prohibit the exclusion of this territory.

Producers proposed that eight townships in Newaygo County be included in the marketing area. Testimony revealed that there is some distribution of milk in these townships from plants located in Muskegon County but that this represents a recent development. No data or reliable estimates were available to show the comparative volumes of milk served by such handlers as compared with sales by local handlers or from plants located outside the proposed area. Producers also proposed the inclusion of six towns in Oceana County. However, there was no testimony that handlers whose plants are located in the marketing area regularly distribute milk in Oceana County. Rather, their interest is confined to the furnishing of supplemental milk to plants located in that county. No data were presented to show the volumes so supplied or how substantial they were in comparison with local or other supplies sold in Oceana County. Testimony revealed that no fluid milk plants are located in Robinson Township of Ottawa County. Since the distributors who are supplying milk to this township will be regulated by virtue of distribution in other portions of the marketing area, there is no need to include Robinson Township. In the circumstances, the townships in Oceana and Newaygo Counties and Robinson Township in Ottawa County have been omitted from the marketing area.

(4) *Milk to be priced.* The milk to be regulated by the order should be that which is regularly delivered to plants from which milk is distributed in the marketing area. To be eligible for such distribution milk must be produced, processed, and distributed in conformity with applicable health regulations, but such compliance need not be specified in the order. The milk to be priced and pooled under the order should be that which constitutes the regular source of supply for the marketing area. This supply may be delineated by providing appropriate definitions of the terms "handler" "producer" and "pool plant"

A "handler" should be defined as any person who operates a pool plant, as hereinafter defined, or any plant in which milk is pasteurized or packaged and from which Class I milk is disposed of in the marketing area. This definition includes wholesale and retail distribution of milk on routes or from stores. The definition should also include any cooperative association with respect to that milk for which the cooperative assumes the responsibility for obligations under the order, as in the case of surplus milk diverted for the account of the cooperative.

A few milk plants located outside the marketing area dispose of some milk on routes extending into the area. If the amount of such milk is not large, its sale has little or no effect on the marketing of milk in the area. Application of order pricing and payment provisions to these distributors would entail effort and expense without contributing significantly to orderly marketing in the area. At the hearing it was proposed that handlers operating bottling plants outside the marketing area and disposing of not more than an average of 600 pounds of Class I milk per day on such routes be exempt from all except the reporting and auditing provisions of the order. Several handlers suggested lower limits on such exemptions, ranging down to 200 pounds per day. However, since the definition includes sales on routes partly within the marketing area as well as those wholly within the area, it is concluded that such exemption should be established at approximately the larger figure. Further, since cream, milk, skim milk, and partly skimmed items are in Class I, and since in terms of value these items are incommensurate on a weight basis, it is desirable to state the limitation in "points", rather than leaving it in terms of pounds of Class I products. For this purpose, a point is considered as either a half pint of cream or a quart of milk, skim milk or partly skimmed products, the approximate equivalent of 600 pounds being 300 points.

The term "producer" should be defined in order to identify those dairy farmers who are the producers of the regular supply of fluid milk and cream for the market, and to whom the minimum prices specified in the order should be paid. Determination of producer status should be made on the basis of delivery of milk from the producer's farm to a pool plant as hereinafter defined.

The producer definition should allow a handler occasionally to divert the milk of some producers to nonpool plants if the handler reports the milk as producer receipts at his pool plant. This provision will facilitate interplant movements of milk for the purpose of adjusting to short-time variations in supply and requirements without depriving the farmers producing the milk of their status as producers.

The determination of pool plant status is the essential part of the determination of which dairy farmers are to be included in the market-wide pool. Therefore, specific requirements for pool plants are needed to define the supply which is generally regarded as a part of the fluid market.

Since the supply area for the Muskegon market overlaps the supply areas of other fluid markets and the manufacturing milk production area, the pool plant definition should include a requirement that a substantial portion of the milk received at the plant be disposed of as fluid products in the marketing area. This requirement is intended to provide for including in the pool all of the plants which have significant fluid milk and cream sales in the marketing area. Fluid milk plants which primarily serve markets outside the marketing area but make a few sales inside the area, and plants which are primarily manufacturing milk plants would be excluded. Such plants cannot be regarded as a part of the Muskegon fluid milk and cream market.

The notice of hearing specified a requirement that 10 percent of the receipts from dairy farmers be disposed of as Class I in the marketing area. However, at the hearing the proponents asked that the requirement be raised to 20 percent. The higher requirement will more effectively assure that any handler participating in the marketwide pool will have such a substantial share of his total sales in the marketing area as to consider it one of his primary sales outlets. On the other hand, handlers whose principal fluid milk distribution business is in markets other than Muskegon will not be required to pay order prices on their entire purchases of milk so long as their in-area sales remain less than 20 percent of their receipts from dairy farmers. Testimony at the hearing and the positions taken in briefs and exceptions also indicate that some plants may be close to the 10 percent figure whereas the 20 percent requirement does not appear likely to necessitate significant readjustments by any plant operators.

The Muskegon marketing area has so far been supplied exclusively by distributors who receive their supplies of milk from dairy farmers directly at the bottling plant. However, it appears desirable, in view of experience in other similar markets, to provide for the qualification as a pool plant of a country station type of operation, one at which milk is received from dairy farmers and shipped in bulk to the bottling plants from which distribution is made to wholesale and retail customers in the marketing area. Such a country station would be a pool plant only when 20 percent or more of its receipts was moved to pool plants from which milk is disposed of in the marketing area as Class I.

A definition of "other source" milk is included to distinguish it from the regular milk supply for the fluid market which is priced under the order. One category of such milk is represented by supplemental supplies purchased by pool plants from nonpool plants and received

in bulk form, either in cans or tanks. Supplemental milk is commonly required during the resort season, mid-June through mid-September, when there is a large but temporary expansion in the demand for milk. There is also some demand for supplemental milk during the fall season of short supply; the quantities needed varying from season to season and as between handlers. No special pricing appears to be necessary for these supplemental supplies. There was no testimony in the record that such supplies have significantly displaced outlets for producer milk. In these circumstances the allocation of producer milk to the highest classes of utilization appears to be a more effective means of minimizing the displacement of producer milk than a similar provision would be in larger markets. If a significant displacement of producer milk by other source supplies occurs under the order, corrective measures can be considered.

Another category of other source milk is represented by that which is sold in the marketing area from plants which do not have a sufficient proportion of in-area sales to qualify as pool plants. The record showed that there were plants in Grand Rapids and elsewhere from which milk was regularly distributed in the marketing area at wholesale and retail, mostly in packaged form. The operator of such a plant would be a handler by reason of his distribution of Class I milk in the marketing area. He would be obligated to report to the market administrator his receipts of milk from all sources and its class utilization; such reports would be subject to verification by audit. The major proportion of sales from such plant would be outside the Muskegon marketing area and the competition both for sales and for the procurement of milk might differ substantially from that encountered by pool plant operators under the order. The milk distributed by the nonpool handler would, of course, have to meet the health requirements applicable to that portion of the marketing area in which milk was distributed.

To price and pool the milk received from dairy farmers at plants having only a small proportion of sales on routes in the marketing area would place the operators of such plants under the complete regulation of the order, while those with whom they compete in their primary markets would remain wholly unregulated. Further, such action would include in the marketwide pool under the Muskegon order considerable volumes of milk produced primarily for the outside markets. The order should not regulate the prices paid to dairy farmers for all milk received at such plants. On the other hand provision must be made to insure that the milk disposed of as Class I milk in the marketing area on routes from such plants will not undermine the pricing and pooling requirements of this order.

The dual objectives of leaving operators of nonpool plants free of order pricing in their primary markets and at the same time maintaining the integrity of the order pricing provisions within the marketing area can be achieved in this market, it is believed, by (1) measuring the amount, if any, by which dairy farmers delivering milk to a nonpool plant from which Class I milk is distributed on routes in the marketing area are being paid less than the equivalent of order prices, (2) dividing such amount by the number of hundredweights of milk sold as Class I from such plant to determine the rate of underpayment per hundredweight of Class I milk, and (3) assessing the rate per hundredweight of any such underpayment on the quantities of Class I milk distributed from the nonpool plant on routes within the marketing area. The rate of payment so assessed should, in no event, exceed the difference between the Class I and Class II prices. The difference between the Class II price and the Class I price, as the basis for maximum payment, will provide the assurance necessary to prevent the displacement of producer milk in Class I.

The order equivalent of the amounts payable to dairy farmers for milk delivered to a nonpool plant distributing Class I milk on routes in the area would be determined in the same manner as each pool plant handler's obligation for producer milk under the order. If payments to dairy farmers are equal to or in excess of the value of milk at order prices, the nonpool plant would have been shown to have paid the equivalent of order prices for its milk. Any deficit would properly be assignable to the procurement of milk for Class I purposes since the value of milk for manufacturing purposes, either as Class II under the order or for similar uses at nonpool plants, is based on nationally competitive markets for the manufactured products. Finally, the rate of payment would be applied only to Class I sales in the Muskegon marketing area, thereby equalizing the nonpool handler's payments for milk sold in the marketing area without affecting his payments on milk procured for sale in his primary marketing sales territory.

The method chosen here of computing the payment is based upon the particular circumstances found to exist in this marketing area at this time. Presently, there appears little probability that milk which is in fact the surplus of other markets will find its way into this market. Rather, the main problem which must be dealt with is that involved in the regular sale in the marketing area of Class I milk from plants which do not dispose of sufficient milk to bring them totally under the regulation. This particular type of situation can be accommodated in this market both from the standpoint of administrative feasibility and from the standpoint of economic determination of the value of such milk. The administrative feasibility results from the fact that the plants from which such milk is distributed are regulated for purposes of reporting and auditing by the market administrator and the regularity of shipment will be well known to him. The value determination is made in a manner identical to that provided for totally regulated milk by the method of computing the payment herein provided. Although it is believed that this method of payment will be satisfactory in this market under present circumstances, reconsideration will need to be given to it if the circumstances change or if under circumstances similar to those of the present, the provision proves unsatisfactory.

(5) *Classification of milk.* Milk should be classified in two classes reflecting the principal differences in the value and in the quality of milk required for different uses. Class I should include all skim and butterfat disposed of for consumption as milk, skim milk or cream for fluid consumption, flavored milk, plant loss of producer milk in excess of 2 percent, and skim milk and butterfat not accounted for in Class II utilization. Class II should include skim milk and butterfat used to produce ice cream or ice cream mix, dried whole milk, nonfat dry milk solids, whole or skimmed evaporated or condensed milk, sweetened or unsweetened, in bulk or in hermatically sealed cans, butter, or cheese (including cottage cheese), or in plant loss of producer milk not in excess of 2 per cent and all plant loss of other source milk, and all skim milk dumped or disposed of as livestock feed.

Representatives of health departments in the two major cities of the marketing area testified that milk sold for fluid consumption and that used to produce skim milk, flavored milk, or cream sold for fluid consumption must be produced and handled in compliance with the same sanitation standards. These standards are substantially uniform in both of the cities.

Handlers proposed that a separate class be established for fluid cream for the purpose of pricing it at a lower level than fluid milk and other Class I products. This follows the past custom in the market of pricing whole milk used to make cream at a lower price. The problem is different, however, where the skim milk and butterfat used in each product in each class are accounted for separately. Under this system the butterfat differential is the major factor in determining the cost of cream. The handler butterfat differential provided by the order for Class I milk is somewhat lower than that proposed by the producers at the current prices of butter. As a result, even though a separate class is not established for cream, its cost to handlers will be no higher than the prices they proposed.

The producers' proposal that milk which is dumped or disposed of for livestock feed be considered as Class II should be modified to apply only to skim milk so utilized. Butterfat in the form of cream is much more valuable in relation to its bulk than skim milk and there should be no necessity for emergency disposition of this component.

With the exception of the cream classification and the classification of milk dumped or fed to livestock there was no opposition to the proposed classification provisions.

Since some handlers combine operations which utilize other source milk in the same plants as those which handle producer milk for the fluid market, it is necessary to provide a method for allocating such other source milk to the classes of utilization. Since producer milk is the milk which is regularly available for fluid consumption in the mar-

keting area, the method of allocation provides that producer milk shall be allocated to Class I to the extent that such use is available.

Producers proposed that actual plant loss, but not to exceed 2 percent of producer milk received, be allowed in the lowest price class, any in excess of this amount to be in Class I. With plant operation of average efficiency, losses normally should not exceed 2 percent. Unlimited allocation of plant loss to Class II would place a premium on unaccounted-for milk and encourage incomplete records of Class I utilization. Any plant losses of producer milk in excess of 2 percent should, therefore, be included in Class I. The standard provisions for prorating loss between producer and other source milk, and allowing for loss on diverted producer milk at the plant where actually received, should also be included in the order.

Provision is made for classification of milk transferred between pool plants and between pool plants and non-pool plants. In the case of transfers between pool plants, transfer is permitted in any agreed class in which the transferee plant has utilization in an amount equal to or greater than the amount so transferred, after allocating any other source milk, since under a market-wide pool the classification of milk transferred between pool plants may represent any agreed producer milk use without affecting the payment to producers. Both handlers are required to report the transferred milk in the agreed classification; otherwise milk and cream transfers are classified as Class I.

In the case of transfers from a pool plant to a non-pool plant, a requirement that producer milk be allocated to the higher value uses in the transferee plant might make it difficult for pool plant operators to dispose of surplus milk. It is concluded that transfers from a pool plant to a non-pool plant in the form of milk, skim milk or cream should be in Class I, but that such transfers may be classified as Class II if so reported by the pool plant operator and if the transferee or another plant to which the product may be moved by the transferee has an equivalent use in Class II and keeps books and records which make it possible for the market administrator to verify such use.

(6) *Class prices.* Since the Muskegon fluid milk market supply is obtained from a region in which large quantities of milk are delivered to plants which manufacture various milk products, it is necessary that the price for the fluid market be closely related to the level of prices being paid at competing manufacturing plants. There are some differences from time to time between the prices paid at plants manufacturing different products. Therefore, the Class I price should be related to that particular manufacturing milk price which represents the best outlet for manufacturing milk at any particular time. The method of accomplishing this has been to relate the Class I price to a series of basic formula prices which represent different kinds of manufacturing milk prices. A differential should be added to the highest of the prices determined by 4 separate alternate price formulas to determine the Class I price for each month.

(a) *Basic formula prices.* The basic formula price to be used in determining the Class I price should be the higher of the prices paid at 18 Midwestern condenseries, a formula based on market prices of butter and non-fat dry milk solids which measures the value of milk to be used for the manufacture of those products, and the average of prices paid by three milk manufacturing plants located in Michigan. The first two of these basic formula prices measure the value of milk used in each of three major manufactured dairy products, all of which are marketed nationally. The prices paid at the Michigan plants will reflect local manufacturing values whenever these are in excess of the national averages.

Use of the highest formula prices as the basic formula price would base the Class I price on the most favorable manufacturing use for milk in each month. In an area where all important dairy products are manufactured, fluid milk markets must compete for milk with plants making the highest valued products. The Class I price should therefore be based on the formula representing the highest value of milk for manufacturing.

The proponents originally proposed an additional basic formula price, composed of a combination of the market values of butter and cheese. This formula no longer reflects the value of milk utilized to manufacture these products and the formula should not be included in the order. However, cheese is a nationally marketed dairy product and its output is expanding substantially. A pricing formula designed to measure the value of milk utilized specifically for cheese making was included for use as a basic formula price in the recommended and tentative decisions. Exception has been taken by interested parties that there has not been opportunity for as full a consideration of the formula as the problem warrants. In the circumstances, the formula should not be adopted at this time.

(b) *Class I price.* The Class I price should be determined by adding $1.17 to the basic formula price.

Producers proposed that a Class I price differential of $1.20 be added to the basic formula price each month. Although records of milk prices, production, and sales for the entire marketing area are not available, satisfactory records are available for milk supplied to plants in Muskegon and vicinity and these account for the great bulk of sales in the entire marketing area. Over the 3-year period, 1949 through 1951, the Class I prices which would have prevailed under the order would have averaged $4.35 per hundredweight as compared with an actual average price of $4.37 per hundred pounds which applied to the milk sold for fluid uses during the same period. In the fall months, October, November, and December, of 1948, 87 percent of the milk supplied by producers was utilized for fluid purposes, indicating sufficient milk for the market but no significant oversupply. However, during the 12-month period October 1948 through September 1949, fluid milk prices in the market averaged 42 cents above those which would have prevailed under the order. Milk supplies increased markedly, and in the fall of 1949 only 77 percent of producer receipts were utilized for fluid purposes. This trend was reversed in 1950. During the 12 months preceding October of that year, market prices for fluid milk averaged 4 cents below the Class I prices which would have prevailed under the order. Producer receipts increased somewhat during this period but there was a greater increase in sales, and 89 percent of producer milk was used for fluid milk purposes during the fall months. A somewhat similar trend continued in 1951. During the period October 1950 through September 1951 prices in the market averaged 5 cents less than they would have under the order and 91 percent of producer milk was utilized for fluid purposes during October–December 1951.

The average of the prices which would have resulted had the order herein recommended been in effect during the period 1948 through 1951 would have been very close to the average of the prices which actually were paid during this period. However, the movement of these two price series was significantly different and it appears that the order would have provided much more timely adjustments to actual conditions. In early 1949 the order would have provided a much more rapid downward readjustment of fluid milk prices and this readjustment would have tended to avoid the oversupply of milk in late 1949. On the other hand the more rapid upward adjustment which would have occurred in early 1951 would have encouraged additional supplies during the remainder of that year and might have alleviated the moderate shortages which developed in August and November. A Class I price differential of $1.17 is also indicated as the appropriate relationship between prices in Muskegon and in Detroit at points where the supply areas for these two markets overlap.

The producers proposed that the Class I price differential be made subject to a "supply-demand" adjustment. Such adjustments are included in several other Federal order markets, including Detroit. Their general purpose is to increase the Class I price when supplies are short in the market and to reduce prices whenever oversupplies are developing.

In a comparatively small, well-integrated market such as is represented by Muskegon there appears to be a minimum of need for a supply-demand adjustment. Past history in this market indicates that the handlers and the producers' association have experienced no undue difficulty in attracting new producers to meet expanding requirements for milk in the area. It is true that the supply area for Muskegon meets the outer edge of the Detroit procurement area. However, it does not appear that this will result in an undue shift of producers between the two markets as a result of any price differences which may result from the operation of the supply-demand adjustment in Detroit. If experience with the operation of an order

in Muskegon demonstrates the need for a supply-demand adjustment, one can appropriately be considered by amendment of the order. Experience under an order will also provide more complete data on class use and on producer receipts for the entire marketing area. A particular limitation on any attempt to develop an appropriate supply-demand adjustment without operating experience is that one cannot be sure which plants will qualify and remain qualified as pool plants. The addition or deletion of a single plant in a small market would substantially affect a supply-demand adjustment.

(c) *Class II price.* The Class II price should reflect the value of milk for general manufacturing uses in the Muskegon milkshed. An appropriate price for this use is the average of the prices paid by three local dairy manufacturing plants. Two of the plants have been important outlets for seasonally excess supplies of milk from the Muskegon market. The average of the prices paid by three Michigan dairy manufacturing plants, as recommended for use as an alternate basic formula price, will normally reflect the value of milk in the Muskegon area which is not used for fluid consumption as milk or cream. The three plants selected are so located that their production areas include most of the Muskegon milkshed. They manufacture evaporated milk, dry whole milk and skim milk, cottage cheese and sweet cream. They are not operated or controlled by persons who will be handlers under the order. Two of these plants are included in the 18 midwest plants used in determining the basic formula price in most Federal milk marketing orders and recommended for such use herein.

(d) *Method of accounting for milk.* The classification and allocation of producer milk should be on a skim milk and butterfat basis. Because of the wide variation in the butterfat test of the various products, it is probable that the skim milk from producer milk will frequently be utilized in a different class than the butterfat from the same milk. Classification of skim milk and butterfat separately is necessary to accomplish complete classification according to use. It is also necessary to allocate producer skim milk and butterfat separately in order to give both skim milk and butterfat in producer milk preference over other source milk in the higher value uses. A continuation of the whole milk system of pricing is desirable. Class prices should be expressed as hundredweight prices, and the price for each class should be adjusted to the actual butterfat test of the class by use of the butterfat differentials set forth below.

(e) *Handler butterfat differentials.* The butterfat differentials to be paid by handlers for each one-tenth of one percent that the butterfat content of producer milk used in Class I or Class II is above or below 3.5 percent should be 7 cents when the market price of Grade A (92-score) butter at Chicago ranges from 60 to 64.99 cents, with a one-half cent variation in the differential for each 5-cent change in butter prices.

Producers proposed that the Class I differential be 2 cents per hundredweight higher than the above schedule. The proposed Class II differential, and that proposed for payments to producers, were the same as above.

This schedule has been widely used in the payment of producers at milk manufacturing plants in Michigan and has also been used in paying producers supplying milk for fluid use in the Muskegon area. It should be applied to Class I prices in preference to a higher schedule of differentials in order to more adequately assess the growing consumer preference for solids-not-fat as indicated by increasing sales of low-fat milk and of skim milk drinks in the Muskegon area and to keep the value of butterfat used in fluid cream at levels no higher than those which have heretofore prevailed in the market. The same schedule is directly applicable to Class II milk since it will facilitate the disposition of and settlement for seasonal excess milk diverted to manufacturing plants for processing.

(7) *Payments to producers*—(a) *Type of pool.* Market-wide pooling of all proceeds of producer milk was proposed by the producer representatives. Marketing conditions require the payment of a uniform price to all producers representing the value of all market utilization to compensate all producers fairly for their contribution to the market supply. Some distributors buy as closely as possible to their needs and carry little or no surplus in the high production months. A cooperative handles the spring surplus production of its members and supplies several distributors with milk as needed. Producers supplying these various handler plants contribute equally to making available a year-around supply of milk but would receive widely varying returns under an individual handler pool method of payment.

Handlers are required to make payments for all producer milk received at the uniform base price for base milk and the excess price for excess milk, as explained below, either to producers directly or to a cooperative association for milk delivered by member producers. In the case of producers for whom a cooperative acts as marketing agent, payment may be made to the producer or to the cooperative, as agreed between them.

(b) *Base-excess plan.* A "base plan" for returning the proceeds of milk sales to producers in a way which will encourage more uniform seasonal production is provided. Milk is to be paid for on the basis of deliveries during the August–December period.

A base plan has been in use in the Muskegon market for several years, and a proposal was made to incorporate a base plan in the order in substantially the form now in use by the proponents. The effect of the base plan in encouraging more even production is shown by records of daily average deliveries per farm. In the Muskegon area deliveries in the highest month of 1943, the earliest year for which data were submitted, were 172 percent of the lowest month and in 1949 deliveries in the month of highest deliveries were only 135 percent of deliveries in the lowest month.

Fundamentally, the plan provides that each producer will receive the manufacturing milk price for milk delivered each month in excess of a daily average amount, the producer's "base", which base is the daily average of shipments of the producer for the period of August through December of the previous year, the "base period." For milk deliveries not in excess of base, a "base price" is paid which is computed by dividing total market base milk deliveries into the remaining returns for all producer milk marketed during the month after deducting the value of the milk in excess of base. Each producer's base for the 12 months starting each February 1 is his average daily deliveries for a minimum of 122 days during the August 1–December 1 period of the preceding year.

The proponent cooperative proposed that a new producer entering the market or a producer electing to give up his base, be paid for a certain percentage of his milk during each of the first three full months of delivery at the base price and the remainder at the excess price. These percentages would be fixed for each month at a somewhat lower percentage of base and higher percentage of excess than the normal market average of all producers for the month. The average daily amount of milk paid for as base milk over the three-month period would determine the producer's daily base until a new base is established. The percentages proposed reflect the seasonal production pattern of new producers as determined from market experience. The low spring percentages are necessary if producers are to be given the option of establishing a new base in order to prevent producers having a wide seasonal variation from receiving higher payments than justified by establishing two bases each year. Also, producers are not encouraged to enter the market in the months when there is an oversupply of milk. The recommended percentages of milk deliveries to be paid for at the base price, 75 percent for January and February, 70 percent for March, 60 percent for April and July and 40 percent for May and June, are appropriate for making payments in these months to new producers and to producers who elect to establish new bases. Payments during the base period, however, should be at the market blend price. Base should be established on deliveries during the base period at 80 percent of deliveries. This would give old shippers the option of establishing a new base on 100 percent of daily average deliveries in the 5 months of August through December or establishing a short-time base at 80 percent of deliveries in the three months beginning October 1, such short-time base to apply for the entire year following the next February 1.

In the Muskegon market the months of lowest production in relation to fluid milk sales are normally October, November, December and January. The base period proposed includes August and September which are usually months of more plentiful supply than are January and February, and does not include January. These months appear to have been selected to offset the lag in

production responses which require the stimulus to fall and winter production to become effective some months in advance of the period of shortest production in relation to market needs. A base period extending through January and February would tend to result in higher production in the spring months of oversupply. It is concluded that the proposed base-forming period should be adopted and that deliveries for only 122 days during the period be required. This would allow a producer starting delivery not later than September 1 to establish a base on 100 percent of deliveries for 4 months, and for limited lapses in delivery during the period by those who ship for 5 months.

A proposal that bases be reduced by the difference between the average base period deliveries and 90 percent of the previous base was the result of long experience in the market which has shown that such an adjustment eliminates most cases of inequity and dissatisfaction because of reductions in base due to accident, disease, weather, feed quality and other conditions more or less beyond the control of the producer.

A period of one month is allowed following the end of the base period to compute new bases. Every producer (except those who have been on the market less than 3 months) receives a new base on February 1 computed as the average of daily deliveries during the base forming months, or 80 percent of average daily deliveries in 3 months.

It is provided that all milk be considered as base milk and be paid for at a uniform price until bases have been established by deliveries during the first base period after the order becomes effective. This, of course, would not prevent a cooperative from repooling the returns for milk of its members and making payments on such base and excess plan as it may elect.

Rules have been provided for the handling of bases under certain circumstances. It is provided that any producer who fails to deliver milk to a handler for 45 consecutive days shall lose his base.

(c) *Producer butterfat differential.* The butterfat differential to be paid producers for each one-tenth of 1 percent that the butterfat content of the milk they deliver during the month is above or below 3.5 percent should be 7 cents when the butter price ranges from 60 to 64.99 cents, with a one-half cent variation in the differential for each 5-cent change in butter prices.

As explained above in connection with the handler butterfat differential this is the same system of butterfat differentials widely used in the payment of producers delivering milk to manufacturing and fluid milk plants in Michigan. It appears that this butterfat differential will result in a supply of producer milk of satisfactory butterfat test for the needs in the market.

(8) *Administrative provisions—(a) Administrative assessments.* The act provides that the costs of administering a milk marketing order shall be financed by assessments on handlers subject to the order. An assessment of 4 cents per hundredweight of milk received from producers was proposed for this purpose. As the order was originally proposed, there would have been only negligible quantities of other source milk sold for fluid purposes in the marketing area and the assessment could have been confined to producer milk. However, milk sold by handlers who have significant sales in the area but less than the 20 percent required for pool plant status will be considered as other source milk. The market administrator will necessarily audit their records and check test products sold by such handlers to the same extent as for the pool plants which receive milk from producers as defined under the order. In fact, he will probably incur more expense in proportion to the volume of milk sold in the area.

It is concluded that the administrative assessment of 4 cents per hundredweight of milk should apply to other source milk sold as Class I in the marketing area as well as to milk received from producers.

(b) *Market services.* To verify payments to producers at required rates, it is necessary to determine that butterfat tests and weights are accurate. To promote orderly marketing and encourage the production of an adequate supply of milk of satisfactory quality, it is necessary to furnish information regarding the market to individual producers. The cost of these market services should be paid by the producers who receive the benefits. Cooperative associations may be performing these services for members. It is provided, therefore, that in making payments to producers who are members of cooperatives determined by the Secretary to be performing such services, handlers shall be required to deduct from payments to producers and pay to the cooperative such amounts as are authorized by the members of the cooperative. In the case of producers who are not receiving such services from their cooperative, the service should be performed by the market administrator with funds provided by a deduction from payments to such producers. It is provided, therefore, that a deduction of 7 cents per hundredweight be made from payments to producers not receiving market services from a cooperative of which they are members and paid to the market administrator to be used for performing such services, and that this rate of 7 cents may be lowered by the Secretary if experience proves a lesser amount to be sufficient.

(c) *Other administrative provisions.* The other provisions cover administrative procedures necessary to carry out the pricing and payment requirements of the order, and for the liquidation of accounts in the event of suspension or termination of the order. Appointment of a market administrator is provided for and his powers and duties are prescribed. The computations to be made by the market administrator in determining class prices, the uniform price and the base price are set forth. A producer-equalization account is provided and the method of determining payments due to and from this account outlined so that each handler's payments to or receipts from this account, together with his payments to producers or cooperatives for milk will equal the value of his producer milk at the class prices. Handlers are required to permit verification by audit of all utilization of milk and milk products. Handlers are required to preserve all necessary records to show receipts, utilization and payments for a period of 3 years. This is considered long enough to allow for all necessary verification and at the same time not burden handlers with an unreasonable volume of old records. Records involved in any litigation, however, must be retained until released by the market administrator.

The termination of any obligation of a handler regarding any payment required by the order or of the market administrator to pay any handler is provided at the end of the 2 years. Exceptions in the case of handler obligations are made in cases of notification of the obligation by the market administrator, failure or refusal of a handler to submit records, or transactions involving fraud or willful concealment of facts. A definite date for terminating obligations prevents the filing of claims which might extend back many years and involve substantial amounts. The resulting uncertainty could cause serious inequities and endanger the stability of the market. Handlers cannot always be forewarned as to contingent liabilities and it is extremely difficult and burdensome for them to make adequate provision therefor by setting up reserves or by taking other precautionary measures. It is concluded that in general a period of 2 years is a reasonable time in which the market administrator should complete his audits and render billings for money due under the order.

Payments to producers have customarily been made on the 15th of the month following that in which the milk was received. It is considered desirable to continue this practice, as a shorter time is impractical considering the necessary reports and computations to be made. On the other hand, producers should not be required to wait longer than 15 days which payment can be made within that time. Dates specified for announcement of class prices, submission of handler reports, announcement of uniform prices and equalization fund obligations are so set as to permit payments to producers by the 15th of the following month.

(9) *Other provisions.* Producers are deprived of the use of money rightfully belonging to them if a handler refuses to pay an obligation when due. It is provided therefore that an added charge of one-half percent per month be added to overdue accounts which will compensate producers for being deprived of money due them and also remove the advantage which would accrue to a handler if he could delay payments and have the use of money due to producers at no cost.

To avoid the application of two or more Federal orders to the handling of the same milk, it is provided that if the Secretary determines that a larger proportion of Class I milk is marketed under the pricing and payment provisions of any other Federal milk marketing order, it shall be exempt from all except the reporting and auditing provisions of this order.

General findings. (a) The proposed marketing agreement and the order and all of the terms and conditions thereof will tend to effectuate the declared policy of the act:

(b) The parity prices of milk as determined pursuant to section 2 of the act are not reasonable in view of the price of feeds, the available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the proposed marketing agreement and the order are such prices as will reflect the aforesaid factors, insure, a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The proposed order will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in a marketing agreement upon which a hearing has been held.

Determination of representative period. The month of April 1953 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of an order to regulate the handling of milk in the Muskegon, Michigan, marketing area in the manner set forth in the attached order is approved or favored by producers, who during such period, were engaged in the production of milk for sale in the marketing area specified in such marketing order.

Marketing agreement and order Annexed hereto and made a part hereof are two documents entitled respectively "Marketing Agreement Regulating the Handling of Milk in the Muskegon, Michigan, Marketing Area," and "Order Regulating the Handling of Milk in the Muskegon, Michigan, Marketing Area," which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions. These documents shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and orders have been met.

It is hereby ordered, That all of this decision, except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of said marketing agreement are identical with those contained in the attached order which will be published with this decision.

This decision filed at Washington, D. C., this 20th day of July 1953.

[SEAL] J. EARL COKE,
Acting Secretary of Agriculture.

Order[1] Regulating the Handling of Milk in the Muskegon, Michigan, Marketing Area

AUTHORITY: §§ 985.1 to 985.131 issued under sec. 5, 49 Stat. 753, as amended; 7 U. S. C. and Sup. 608c.

§ 985.0 *Findings and determinations.*— (a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.) and the applicable rules of practice and procedure, as amended, governing the formulation of marketing agreements and marketing orders (7 CFR Part 900) a public hearing was held upon a proposed marketing agreement and a proposed order regulating the handling of milk in the Muskegon, Michigan, marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The parity prices of milk produced for sale in the said marketing area as determined pursuant to section 2 of the act are not reasonable in view of the price of feeds, available supplies of feeds and other economic conditions which affect market supplies of and demand for such milk, and the minimum prices specified in the order are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk and be in the public interest;

(3) The said order regulates the handling of milk in the same manner as and is applicable only to persons in the respective classes of industrial and commercial activity specified in a marketing agreement upon which a hearing has been held;

(4) All milk and milk products handled by handlers, as defined in this order, are in the current of interstate commerce or directly burden, obstruct, or affect interstate commerce in milk or its products; and

(5) It is hereby found that the necessary expenses of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expense, 4 cents per hundredweight or such amount not exceeding 4 cents per hundredweight as the Secretary may prescribe, with respect to all receipts within the month of milk from producers and other source milk which is classified as Class I milk.

Order relative to handling. It is therefore ordered that on and after the effective date hereof the handling of milk in the Muskegon, Michigan, marketing area shall be in conformity to and in compliance with the following terms and conditions as set forth below.

DEFINITIONS

§ 985.1 *Act.* "Act" means Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C., 601 et seq.).

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and orders have been met.

§ 985.2 *Secretary.* "Secretary" means the Secretary of Agriculture of the United States, or any other officer or employee of the United States, authorized to exercise the powers or to perform the duties of the Secretary of Agriculture.

§ 985.3 *U. S. D. A.* "U. S. D. A." means the United States Department of Agriculture.

§ 985.4 *Person.* "Person" means any individual, partnership, corporation, association, or any other business unit.

§ 985.5 *Muskegon, Michigan, marketing area.* "Muskegon, Michigan, marketing area" referred to in this subpart as the "marketing area" means all territory, including incorporated municipalities, within Muskegon County and within the outer boundaries of the following townships of Ottawa County, in the State of Michigan:

Chester.	Polkton.
Crockery.	Spring Lake.
Grand Haven.	

§ 985.6 *Pool plant.* "Pool plant" means a plant (except one which is exempted pursuant to § 985.101) from which either (1) 20 percent or more of the total milk received at such plant during the month is disposed of in the marketing area as Class I other than to another pool plant, or (2) 20 percent or more of the total milk received from dairy farmers at such plant during the month is moved to a pool plant(s) as described in (1) above.

§ 985.7 *Handler* "Handler" means:

(a) A person who operates a pool plant or a plant in which milk is pasteurized or packaged and from which Class I milk is disposed of in the marketing area.

(b) A cooperative association with respect to milk customarily received by a handler as described under paragraph (a) of this section, which is diverted to a non-handler for the account of the association.

§ 985.8 *Producer* "Producer" means any dairy farmer whose milk is delivered from his farm to a pool plant, or to any other plant by diversion from a pool plant for the account of a handler.

§ 985.9 *Producer-handler.* "Producer-handler" means a person who is a handler and who produces milk, but receives no milk from other producers or from a cooperative association.

§ 985.10 *Other source milk.* "Other source milk" means all skim milk and butterfat in any form received at a handler's plant other than from producers or from a pool plant.

§ 985.11 *Cooperative association.* "Cooperative association" means any cooperative marketing association of producers, duly organized as such under the laws of any State, which the Secretary determines:

(a) Is qualified under the standards set forth in the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act";

(b) Has full authority in the sale of milk of its members; and

(c) Is engaged in making collective sales or marketing milk or its products for its members.

§ 985.12 *Base.* "Base" means a quantity of milk, expressed in pounds per day, determined for each producer as provided in § 985.70.

§ 985.13 *Base milk.* "Base milk" means milk delivered by a producer each month which is not in excess of his base multiplied by the number of days on which milk is delivered during the month, and all milk delivered by a producer prior to February 1, 1954.

§ 985.14 *Excess milk.* "Excess milk" means milk delivered by a producer each month in excess of his base milk.

MARKET ADMINISTRATOR

§ 985.20 *Designation.* The agency for the administration of this subpart shall be a market administrator, selected by the Secretary who shall be entitled to such compensation as may be determined by, and shall be subject to removal by, the Secretary.

§ 985.21 *Powers.* The market administrator shall have the following powers with respect to this subpart:

(a) To administer its terms and provisions;

(b) To receive, investigate, and report to the Secretary complaints of violation;

(c) To make rules and regulations to effectuate its terms and provisions;

(d) To recommend amendments to the Secretary.

§ 985.22 *Duties.* The market administrator shall perform all duties necessary to administer the terms and provisions of this subpart, including, but not limited to, the following:

(a) Within 30 days following the date on which he enters upon his duties, execute and deliver to the Secretary a bond, effective as of the date on which he enters upon such duties and conditioned upon the faithful performance of such duties, in an amount and with surety thereon satisfactory to the Secretary;

(b) Employ and fix the compensation of such persons as may be necessary to enable him to administer its terms and provisions;

(c) Obtain a bond in a reasonable amount and with reasonable surety thereon covering each employee who handles funds entrusted to the market administrator;

(d) Pay, out of the funds provided by § 985.85:

(1) The cost of his bond and of the bonds of his employees,

(2) His own compensation, and

(3) All other expenses, except those incurred under § 985.86, necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

(e) Keep such books and records as will clearly reflect the transactions provided in this subpart, and, upon request by the Secretary, surrender the same to such other person as the Secretary may designate;

(f) Publicly announce, unless otherwise directed by the Secretary, the name of any person who, within 10 days after the day upon which he is required to perform such acts, has not made (1) reports pursuant to § 985.30 and § 985.31, or (2) payments pursuant to § 985.80 and § 985.83;

(g) Calculate a base for each producer in accordance with § 985.70 and advise the producer and the handler receiving the milk of such base;

(h) Submit his books and records to examination by the Secretary and furnish such information and reports as may be requested by the Secretary;

(i) Audit records of all handlers to verify the reports and payments required pursuant to the provisions of this subpart; and

(j) Publicly announce the prices determined for each month as follows:

(1) On or before the 5th working day of each month, the minimum class prices for the preceding month computed pursuant to §§ 985.51 and 985.52, and the handler butterfat differential computed pursuant to § 985.53, and

(2) On or before the 11th day of each month the uniform price, the price for base milk and the price for excess milk for the preceding month, computed pursuant to §§ 985.62, 985.63, and 985.64, and the producer butterfat differential computed pursuant to § 985.81.

REPORTS, RECORDS AND FACILITIES

§ 985.30 *Monthly reports of receipts and utilization.* On or before the 5th working day of each month, each handler who operates a pool plant shall report to the market administrator, for the preceding month, in the detail and on forms prescribed by the market administrator, the receipts at his pool plant from each of the following sources and the quantities of butterfat and skim milk contained in such receipts; the utilization of such receipts; and such other information with respect to such receipts and utilization as the market administrator may prescribe;

(a) All producer milk received, including diverted producer milk;

(b) All skim milk and butterfat in any form received from each other handler; and

(c) All other source milk received except any non-fluid milk product which is disposed of in the same form as received.

§ 985.31 *Other reports.* (a) Each producer-handler and each handler who does not operate a pool plant shall make reports at such time and in such manner as the market administrator may request.

(b) On or before the 20th day of each month each handler who received milk from producers shall report his producer payroll for the preceding month which shall show:

(1) The pounds of base milk and pounds of excess milk received from each producer, and the percentage of butterfat contained therein;

(2) The amount and date of payment to each producer, or to a cooperative association; and

(3) The nature and amount of each deduction or charge involved in the payments referred to in subparagraph (2) of this paragraph.

§ 985.32 *Records and facilities.* Each handler shall maintain and make available to the market administrator during

the usual hours of business, such accounts and records of all of his operations and such facilities as are necessary to verify reports or to ascertain the correct information with respect to (a) the receipts and utilization or disposition of all skim milk and butterfat received, including all milk products received and disposed of in the same form; (b) the weights and tests for butterfat, skim milk and other contents of all milk and milk products handled; and (c) payments to producers and cooperative associations.

§ 985.33 *Retention of records.* All books and records required under this subpart to be made available to the market administrator shall be retained by the handler for a period of three years to begin at the end of the month to which such books and records pertain: *Provided,* That, if within such three-year period, the market administrator notifies a handler in writing that the retention of such books and records is necessary in connection with a proceeding under section 8c (15) (A) of the act or a court action specified in such notice, the handler shall retain such books and records until further written notification from the market administrator. The market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

CLASSIFICATION

§ 985.40 *Skim milk and butterfat to be classified.* All skim milk and butterfat received at a pool plant (a) in milk from producers or from a cooperative association, (b) in any form from other handlers and (c) in other source milk required to be reported pursuant to § 985.30, shall be classified (separately as skim milk and butterfat) in the classes set forth in § 985.41.

§ 985.41 *Classes of utilization.* Subject to the conditions set forth in §§ 985.42 and 985.43 the classes of utilization shall be as follows:

(a) Class I utilization shall be all skim milk and butterfat (1) disposed of for consumption in fluid form as milk, skim milk, buttermilk, flavored milk, sweet or sour cream, and (2) not accounted for as Class II utilization.

(b) Class II utilization shall be all skim milk and butterfat, (1) used to produce ice cream, ice cream mix, or cottage cheese, whole or skimmed condensed or evaporated milk (sweetened or unsweetened) in bulk or in hermetically sealed cans, cheese, dried whole milk, non-fat dry milk solids, or butter; (2) in actual shrinkage of skim milk and butterfat in milk received from producers, but not to exceed 2 percent of such receipts; (3) in actual shrinkage in other source milk; and (4) in skim milk authorized by the market administrator to be dumped or accounted for as disposed of as livestock feed.

§ 985.42 *Shrinkage.* (a) If producer milk is utilized in conjunction with other source milk, the shrinkage shall be allocated pro rata between the receipts of skim milk and butterfat in producer milk and in other source milk.

(b) Shrinkage on producer milk shall be computed on that quantity of milk received directly from producers. Shrinkage shall be computed on diverted producer milk at the plant receiving such milk.

§ 985.43 *Transfers.* (a) Skim milk and butterfat disposed of from a pool plant to another pool plant in the form of milk, skim milk or cream shall be Class I utilization unless Class II utilization is indicated by the operators of both plants in their reports submitted pursuant to § 985.30: *Provided,* That in no event shall the amount so classified as Class II be greater than the amount of producer milk used in such class in the pool plant of the transferee handler after allocating other source milk in such plant in series beginning with the lowest priced utilization.

(b) Skim milk and butterfat moved in the form of milk, skim milk or cream from a pool plant to a handler described in § 985.101 or to a plant not a pool plant shall be Class I utilization unless all of the following conditions are met:

(1) Class II utilization is indicated by the operator of the pool plant in his report submitted pursuant to § 985.30.

(2) The operator of such nonpool plant in the month of such movement had actually used an equivalent amount of skim milk and butterfat in Class II, or moved such amount to another nonpool plant which meets the requirements of subparagraph (3) of this paragraph and utilized in the month an equivalent amount of skim milk and butterfat in Class II.

(3) The operator of the nonpool plant maintains books and records which are made available for examination upon request by the market administrator and which are adequate for the verification of such class II utilization.

§ 985.44 *Responsibility of handlers.* All skim milk and butterfat shall be classified as Class I utilization unless the handler who first receives such skim milk or butterfat proves to the market administrator that such skim milk or butterfat should be classified otherwise.

§ 985.45 *Computation of skim milk and butterfat in each class.* For each month the market administrator shall correct for mathematical and obvious errors the monthly report submitted by each handler and compute the total pounds of skim milk and butterfat, respectively, in Class I and Class II utilization for each handler.

§ 985.46 *Allocation of butterfat classified.* The pounds of butterfat remaining after making the following computations shall be the pounds in each class allocated to milk received from producers:

(a) Subtract from the total pounds of butterfat in Class II utilization, the pounds of butterfat shrinkage allowed pursuant to § 985.41 (b) (2)

(b) Subtract from the total pounds of butterfat remaining in each class, in series beginning with the lowest-priced utilization, the pounds of butterfat in other source milk;

(c) Subtract from the pounds of butterfat remaining in each class, the pounds of butterfat received from other handlers in such classes pursuant to § 985.43 (a) and

(d) Add to the remaining pounds of butterfat in Class II utilization the pounds subtracted pursuant to paragraph (a) of this section;

(e) If the remaining pounds of butterfat in both classes exceed the pounds of butterfat in milk received from producers, subtract such excess from the remaining pounds of butterfat in each class in series, beginning with the lowest-priced utilization.

§ 985.47 *Allocation of skim milk classified.* Allocate the pounds of skim milk in each class to milk received from producers in a manner similar to that prescribed for butterfat in § 985.46.

MINIMUM PRICES

§ 985.50 *Basic formula price.* The basic formula price to be used in determining the price per hundredweight of Class I utilization shall be the highest of the prices computed pursuant to paragraphs (a), (b), and (c) of this section. section.

(a) The average of the basic or field prices per hundredweight reported to have been paid, or to be paid, for milk of 3.5 per cent butterfat content received from farmers during the month at the following plants or places for which prices have been reported to the market administrator or to the U. S. D. A..

Present Operator and Location

Borden Co., Mount Pleasant, Mich.
Carnation Co., Sparta, Mich.
Pet Milk Co., Hudson, Mich.
Pet Milk Co., Wayland, Mich.
Pet Milk Co., Coopersville, Mich.
Borden Co., Greenville, Wis.
Borden Co., Black Creek, Wis.
Borden Co., Orfordville, Wis.
Borden Co., New London, Wis.
Carnation Co., Chilton, Wis.
Carnation Co., Berlin, Wis.
Carnation Co., Richland Center, Wis.
Carnation Co., Oconomowoc, Wis.
Carnation Co., Jefferson, Wis.
Pet Milk Co., New Glarus, Wis.
Pet Milk Co., Belleville, Wis.
White House Milk Co., Manitowoc, Wis.
White House Milk Co., West Bend, Wis.

(b) The price per hundredweight computed by adding together the plus values computed pursuant to subparagraphs (1) and (2) of this paragraph;

(1) From the simple average, as computed by the market administrator, of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter per pound at Chicago as reported by the U. S. D. A. during the month; subtract 3 cents, add 20 percent thereof and multiply by 3.5.

(2) From the simple average as computed by the market administrator, of the weighted averages of carlot prices per pound for nonfat dry milk solids, spray and roller process, respectively, for human consumption, f. o. b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the immediately preceding month through the 25th day of the current

month by the U. S. D. A., deduct 5.5 cents and then multiply by 8.2.

(c) The average of the prices per hundredweight reported to have been paid, or to be paid, for milk of 3.5 percent butterfat content received from farmers during the month at the following plants for which prices have been reported to the market administrator:

Carnation Milk Co., Sparta, Mich.
Saranac Milk Products Co., Saranac, Mich.
Pet Milk Co., Wayland, Mich.

§ 985.51 *Class I milk price.* (a) The minimum price per hundredweight to be paid by each handler, f. o. b. his pool plant, for milk of 3.5 percent butterfat content received from producers or from cooperative associations during the month, which is classified as Class I utilization shall be the basic formula price plus $1.17.

§ 985.52 *Class II Milk Price.* The minimum price per hundredweight to be paid by each handler, f. o. b. his pool plant, for milk of 3.5 butterfat content received from producers or from a cooperative association, during the month, which is classified as Class II utilization, shall be the price per hundredweight computed pursuant to § 985.50 (c)

§ 985.53 *Handler butterfat differentials.* If the average butterfat content of the milk of any handler allocated to any class is more or less than 3.5 percent, there shall be added to the prices of milk for each class as computed pursuant to §§ 985.51 and 985.52 for each one-tenth of one percent that the average butterfat content of such milk is above 3.5 percent, or subtracted for each one-tenth of one percent that such average butterfat content is below 3.5 percent, an amount equal to the producer butterfat differential, determined pursuant to § 985.81.

DETERMINATION OF UNIFORM PRICE

§ 985.60 *Handler operating a plant which is not a pool plant.* Each handler who operates a plant which is not a pool plant during the month shall pay to the market administrator for the producer equalization fund, on or before the 25th day after the end of such month any amount resulting from the following computation:

(a) Compute an amount equal to the net pool obligation which would be computed pursuant to § 985.61 for milk received from dairy farmers at such plant for such month if such handler operated a pool plant;

(b) Deduct the gross payments, inclusive of any premiums but exclusive of deductions, made by the handler to dairy farmers for milk received at such plant during such month;

(c) Divide the remainder, if any, by the number of hundredweights of milk received from dairy farmers and utilized for Class I purposes: *Provided,* That in no event shall the resulting amount per hundredweight exceed the difference between the Class I and Class II prices; and

(d) Multiply the amount per hundredweight determined pursuant to paragraph (c) of this section by the number of hundredweights of Class I milk disposed of from such plant in the marketing area.

§ 985.61 *Computation of value of producer milk for each handler* The value of producer milk received during the month by each handler who operates a pool plant shall be a sum of money computed by the market administrator by multiplying by the applicable class price, adjusted pursuant to § 985.53, the total combined hundredweight of skim milk and butterfat received from producers allocated to each class pursuant to § 985.46 and § 985.47, adding together the resulting amounts, and if such handler has a utilization greater than has been accounted for as received from all sources, add an amount computed by multiplying any such excess utilization classified pursuant to § 985.46 (e) and § 985.47 by the applicable class prices.

§ 985.62 *Computation of the 3.5 percent value of all producer milk.* For each month, the market administrator shall compute the 3.5 percent value of producer milk by:

(a) Combining into one total the individual values of milk of all handlers computed pursuant to § 985.61, adjusted by any charges or credits pursuant to § 985.90 (a) and (b).

(b) Adding, if the weighted average butterfat test of all producer milk represented in paragraph (a) of this section is less than 3.5 percent, or subtracting if the weighted average butterfat test of such milk is more than 3.5 percent, an amount computed by multiplying the total pounds of butterfat represented by the difference of such average butterfat test from 3.5 percent by the butterfat differential provided in § 985.81 multiplied by 10.

(c) Adding not less than one-half of the unobligated balance in the producer-equalization fund.

§ 985.63 *Uniform price.* For each month the uniform price shall be computed by: (a) Dividing the amount computed pursuant to § 985.62 by the hundredweight of milk received from producers represented by the values included in § 985.62 (a), and (b) subtracting not less than 6 cents or more than 7 cents.

§ 985.64 *Excess milk price.* For each month the excess milk price shall be the price of Class II utilization determined pursuant to § 985.52, rounded off to the nearest full cent.

§ 985.65 *Computation of the base milk price.* (a) Multiply the total pounds of excess milk and milk to be paid for at the excess milk price pursuant to § 985.70 (b) by the excess milk price for the month.

(b) Multiply the total amount of milk to be paid for at the uniform price by the uniform price for the month.

(c) Subtract the total values arrived at in paragraphs (a) and (b) of this section from the total 3.5 percent value of all producer milk arrived at in § 985.62;

(d) Divide the resultant value by the total hundredweight of base milk and milk to be paid for at the base price pursuant to § 985.70 (b), and

(e) Subtract not less than 4 cents nor more than 5 cents. The resultant hundredweight price shall be the price of base milk of 3.5 percent butterfat content received at pool plants described in § 985.6.

§ 985.66 *Notification.* On or before the 12th day after the end of each month the market administrator shall notify each handler of:

(a) The amounts and values of his milk in each class and the total of such amounts and values;

(b) The base of any producer delivering milk to the handler which was not used in making payments for the previous month;

(c) The amount due such handler from the producer-equalization fund or the amount to be paid by such handler to the producer-equalization fund, as the case may be; and

(d) The totals of the minimum amounts to be paid by such handler pursuant to §§ 985.80, 985.83, 985.85, 985.86, and 985.90.

BASE RULES

§ 985.70 *Determination of base.* (a) A producer who delivered milk on at least 122 days during the period August 1 through December 31, inclusive, shall have a base computed by the market administrator to be applicable, subject to paragraph (c) of this section, for the 12 months' period beginning the following February 1, equal to his daily average milk deliveries from the date on which milk was first delivered in the period to the end of such period: *Provided,* That a producer who had a base previous to August 1, and whose average of daily deliveries for the August 1–December 31 period is less than such base shall have a base computed by subtracting from his previous base any amount by which 90 percent of his previous base exceeds such average of daily deliveries.

(b) A producer who has no base by reason of having delivered less than 3 full months shall be paid, until such time as he has been a producer 3 full months, the uniform price in each of the months of August through December and in other months the price applicable to base milk for the following percentages of his milk deliveries and the price applicable to excess milk for the remainder of his deliveries: 75 percent for January and February, 70 percent for March, 60 percent for April and July, and 40 percent for May and June. At the conclusion of the first 3 full months' delivery a base shall be established in the following manner: Multiply the total deliveries in the months of August through December by 0.8, in January and February by 0.75, in March by 0.7, in April and July by 0.6, and in May and June by 0.4. Add the amounts so computed and divide by the number of days in which milk was delivered during the three months.

(c) A producer with a base, by notifying the market administrator that he relinquishes such base, may establish a new base pursuant to paragraph (b) of this section once during the 12-month period ending December 31, the period for establishing a new base to begin the first day of the month in which such notification is received by the market administrator.

(d) From the effective date of the subpart until bases are established pur-

suant to this section, all milk delivered by producers shall be considered to be base milk.

§ 985.71 *Application of bases.* (a) A base shall apply to deliveries of milk by the producer for whose account milk was delivered during the base period and upon death may be transferred to a member or members of the deceased producer's immediate family.

(b) Bases may be transferred under the following conditions upon written notice by the holder of the base to the market administrator on or before the last day of the month that such base is to be transferred:

(1) Upon retirement or entry into military service of a producer, the entire base may be transferred to a member or members of his immediate family.

(2) Bases may be held jointly and if such joint holding is terminated the bases may be transferred as specified in writing to the market administrator.

(c) A producer who does not deliver milk to a handler for 45 consecutive days shall forfeit his base.

PAYMENT FOR MILK

§ 985.80 *Time and method of payment.* On or before the 15th day after the end of each month each handler who received milk from producers or from a cooperative association shall pay for milk received during such month to each producer, or to a cooperative association for milk received from producers for the account of such association, the uniform price as provided in § 985.70 (b) or the base price for base milk and for milk to be paid for at the base price pursuant to § 985.70 (b) and the excess price for excess milk and milk to be paid for at the excess price pursuant to § 985.70 (b) adjusted by the butterfat differential pursuant to § 985.81. *Provided,* That if by such date such handler has not received full payment for such month pursuant to § 985.84 he shall not be deemed to be in violation of this section if he reduces uniformly to all producers and cooperative associations his payments per hundredweight by a total amount not in excess of the reduction in payments due from the market administrator; however, the handler shall make such balance of payment uniformly to those producers to whom it is due on or before the date for making payments pursuant to this section next following that on which such balance of payment is received from the market administrator.

§ 985.81 *Producer butterfat differential.* In making payments pursuant to § 985.80, the uniform price, base price and excess price shall be increased or decreased for each one-tenth of one percent of butterfat content in the milk received from each producer or a cooperative association above or below 3.5 percent, as the case may be, by a butterfat differential of 7 cents when the average price of butter as described in § 985.50 (b) (1) is 60 cents, which differential shall be increased one-half cent for each full 5 cents variance in such price of butter above 60 cents and decreased one-half cent for each full 5 cents variance in such price of butter below 64.99 cents.

§ 985.82 *Producer-equalization fund.* The market administrator shall establish and maintain a separate fund, known as the "producer-equalization fund" into which he shall deposit all payments received pursuant to § 985.83 and out of which he shall make all payments pursuant to § 985.84.

§ 985.83 *Payments to the producer-equalization fund.* (a) On or before the 13th day after the end of each month, each handler whose value of milk is required to be computed pursuant to § 985.61 shall pay to the market administrator any amount by which such value for such month is greater than the minimum amount required to be paid by him pursuant to § 985.80.

(b) On or before the 25th day after the end of each month each handler who is required to make payment pursuant to § 985.60 shall pay such amount to the market administrator.

§ 985.84 *Payments out of the producer-equalization fund.* On or before the 14th day after the end of each month, the market administrator shall pay to each handler any amount by which the value of milk for such handler for the month pursuant to § 985.61 is less than the total minimum amount required to be paid by him pursuant to § 985.80, less any unpaid obligations of such handler to the market administrator pursuant to § 985.83: *Provided,* That if the balance in the producer-equalization fund is insufficient to make all payments to all such handlers pursuant to this paragraph, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds become available.

§ 985.85 *Expense of administration.* As his pro rata share of the expense of administration of this subpart, each handler shall pay to the market administrator on or before the 13th day after the end of each month four cents per hundredweight, or such amount not exceeding four cents per hundredweight as the Secretary may prescribe, with respect to all receipts within the month of milk which is sold in the marketing area as Class I.

§ 985.86 *Marketing services.* (a) Except as set forth in paragraph (b) of this section, each handler, in making payments pursuant to § 985.80 for milk received from each producer at a plant not operated by a cooperative association of which such producer is a member, shall deduct seven cents per hundredweight, or such amount not exceeding seven cents per hundredweight as the Secretary may prescribe, with respect to all such milk received during the month and, on or before the 13th day after the end of each month, shall pay such deductions to the market administrator. Such moneys shall be used by the market administrator to verify weights, samples, and tests of milk received from producers and to provide producers with market information, such services to be performed by the market administrator or by an agent engaged by and responsible to him.

(b) In the case of producers whose milk is received at a plant not operated by a cooperative association of which such producers are members, and for whom a cooperative association is actually performing the services described in paragraph (a) of this section, as determined by the Secretary, each handler shall make, in lieu of the deductions specified in paragraph (a) of this section, such deductions from payments required pursuant to § 985.80 as may be authorized by such producers, and pay such deductions on or before the 13th day after the end of the month to the cooperative association rendering such services of which such producers are members.

ADJUSTMENT OF ACCOUNTS

§ 985.90 *Payments.* Whenever audit by the market administrator of any handler's reports, books, records, or accounts discloses adjustments to be made, for any reason, which result in moneys due:

(a) To the market administrator from such handler,

(b) To such handler from the market administrator, or

(c) To any producer or cooperative association from such handler, the market administrator shall notify such handler promptly of any such amount due; and payment thereof shall be made on or before the next date, following the 5th day after such notice, for making payment set forth in the provision under which such error occurred.

§ 985.91 *Overdue accounts.* Any unpaid obligation of a handler or of the market administrator pursuant to §§ 985.83, 985.85, 985.86, and 985.90 shall be increased one-half of one percent on the first day of the month next following the due date of such obligation and on the first day of each month thereafter until such obligation is paid.

APPLICATION OF PROVISIONS

§ 985.100 *Milk caused to be delivered by cooperative associations.* Milk referred to in this subpart as received from producers by a handler shall include milk of producers caused to be delivered to such handlers by a cooperative association.

§ 985.101 *Handler exemption.* A handler who operates a plant located outside the marketing area from which an average of less than 300 points (one point being defined as one-half pint of cream or one quart of any other Class I product) of Class I milk per day is disposed of during the delivery period on a route(s) operating wholly or partly within the marketing area, or a handler whom the Secretary finds is subject, during the delivery period, to another Federal order and whose disposition of Class I milk in the other Federal marketing area exceeds that in the Muskegon marketing area, shall be exempted for such delivery period from all provisions of this subpart except §§ 985.31, 985.32, and 985.33.

§ 985.102 *Producer-handler* A producer-handler shall be exempt from all provisions of this subpart except that he shall make reports to the market administrator at such time and in such manner as the market administrator may request.

TERMINATIONS OF OBLIGATIONS

§ 985.110 *Termination of obligations.* (a) The obligation of any handler to pay money required to be paid under the terms of this subpart shall, except as provided in paragraphs (b) and (c) of this section, terminate two years after the last day of the month during which the market administrator receives the handler's report of utilization of the milk involved in such obligation, unless within such two-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain, but need not be limited to, the following information:

(1) The amount of the obligation;

(2) The month(s) during which the milk, with respect to which the obligation exists, was received or handled; and

(3) If the obligation is payable to one or more producers or to a cooperative association, the name of such producers or associations, or, if the obligation is payable to the market administrator, the account for which it is to be paid.

(b) If a handler fails or refuses, with respect to any obligation under this subpart, to make available to the market administrator or his representatives all books or records required by this subpart to be made available, the market administrator may, within the two-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said two-year period with respect to such obligation shall not begin to run until the first day of the month following the month during which such books and records pertaining to such obligation are made available to the market administrator or his representative.

(c) Notwithstanding the provisons of paragraphs (a) and (b) of this section, a handler's obligation under this subpart to pay money shall not be terminated with respect to any transaction involving fraud or wilful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed.

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this subpart shall terminate two years after the end of the month during which the milk involved in the claim was received if an underpayment is claimed, or two years after the end of the month during which the payment (including deduction or setoff by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler, within the applicable period of time, files, pursuant to section 8c (15) (A) of the act, a petition claiming such money.

EFFECTIVE TIME, SUSPENSION OR TERMINATION

§ 985.120 *Effective time.* The provisions of this subpart, or of any amendment to this subpart, shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated.

§ 985.121 *When suspended or terminated.* The Secretary shall, whenever he finds that this subpart, or any provision of this subpart, obstructs or does not tend to effectuate the declared policy of the act, terminate or suspend the operation of this subpart or any such provision of this subpart.

§ 985.122 *Continuing obligation.* If, upon the suspension or termination of any or all provisions of this subpart, there are any obligations thereunder the final accrual or ascertainment of which requires further acts by any person (including the market administrator), such further acts shall be performed notwithstanding such suspension or termination.

§ 985.123 *Liquidation.* Under the suspension or termination of the provisions of this subpart, except this section, the market administrator, or such other liquidating agent as the Secretary may designate, shall if so directed by the Secretary, liquidate the business of the market administrator's office, dispose of all property in his possession or control, including accounts receivable, and execute and deliver all assignments or other instruments necessary or appropriate to effectuate any such disposition. If a liquidating agent is so designated, all assets, books, and records of the market administrator shall be transferred promptly to such liquidating agent. If, upon such liquidation, the funds on hand exceed the amounts required to pay outstanding obligations of the office of the market administrator and to pay necessary expenses of liquidation and distribution, such excess shall be distributed to contributing handlers and producers, in an equitable manner.

MISCELLANEOUS PROVISIONS

§ 985.130 *Agents.* The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions of this subpart.

§ 985.131 *Separability of provisions.* If any provision of this subpart, or the application to any person or circumstances, is held invalid, the application of such provision, and of the remaining provisions of this subpart, to other persons or circumstances shall not be affected thereby.

Order of the Secretary Directing That a Referendum be Conducted Among the Producers Supplying Milk to the Muskegon, Michigan, Marketing Area, and Designation of an Agent to Conduct Such Referendum

Pursuant to section 8c (19) of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 608c (19)), it is hereby directed that a referendum be conducted among the producers (as defined in the proposed order regulating the handling of milk in the Muskegon, Michigan, marketing area) who, during the month of April 1953 were engaged in the production of milk for sale in the marketing area specified in the aforesaid order to determine whether such producers favor the issuance of the order which is a part of the decision of the Secretary of Agriculture filed simultaneously herewith.

The month of April 1953 is hereby determined to be the representative period for the conduct of such referendum.

A. T. Radigan is hereby designated agent of the Secretary to conduct such referendum in accordance with the procedure for the conduct of referenda to determine producer approval of milk marketing orders as published in the FEDERAL REGISTER on August 10, 1950 (15 F. R. 5177), such referendum to be completed on or before the 25th day from the date this referendum order is issued.

[F. R. Doc. 53-6503; Filed, July 22, 1953; 8:54 a. m.]

CIVIL AERONAUTICS BOARD

[14 CFR Part 62]

NOTIFICATION AND REPORTING OF AIRCRAFT ACCIDENTS AND MISSING AIRCRAFT

NOTICE OF PROPOSED RULE MAKING

Pursuant to authority delegated by the Civil Aeronautics Board to the Bureau of Safety Regulation, notice is hereby given that the Bureau has under consideration proposed amendments to Part 62 of the Civil Air Regulations as hereinafter set forth.

Interested persons may participate in the making of the proposed rules by submitting such written data, views, or arguments as they may desire. Communications should be submitted in duplicate to the Civil Aeronautics Board, attention Bureau of Safety Regulation, Washington 25, D. C. In order to insure their consideration by the Board before taking further action on the proposed rules, communications must be received by August 21, 1953. Copies of such communications will be available after August 25, 1953, for examination by interested persons at the Docket Section of the Board, Room 5412, Department of Commerce Building, Washington, D. C.

Presently effective Part 62 of the Civil Air Regulations provides for notification and reporting of aircraft accidents and missing aircraft. This part distinguishes between the requirements for notification and reporting of accidents to "air carrier aircraft" (Subpart A) and to "other than air carrier aircraft" (Subpart B). For accident analysis purposes it is desirable that certain accidents involving aircraft presently reported under the classification of "other than air carrier aircraft" should be reported giving the data required in the reports presently required for air carrier aircraft. In addition, operators of large aircraft being used in non-air carrier operations are confronted with the problem of reporting aircraft damage in accordance with Subpart B when it exceeds $100. This does not appear to be a realistic requirement for large aircraft.

In view of the foregoing, it appears desirable to change the applicability of these subparts by making Subpart A applicable to aircraft of 12,500 pounds or more maximum certificated take-off weight and to those aircraft regardless of weight which, at the time of the accident, were being used in operations conducted under the terms of an air carrier operating certificate issued in accordance with the provisions of Parts 40 or 41 of the Civil Air Regulations. Subpart B would in turn be applicable to all other small aircraft.

In consideration of the foregoing, notice is hereby given that it is proposed to amend Part 62 of the Civil Air Regulations as follows:

1. By amending the title of Subpart A by deleting the words "Air Carrier Requirements" and inserting in lieu thereof the words "Large Aircraft and Aircraft Used in Scheduled Operations"

2. By adding a new § 62.4 to Subpart A to read as follows:

§ 62.4 *Applicability of this subpart.* The requirements of this subpart shall apply to all aircraft of 12,500 pounds or more maximum certificated take-off weight, and to all aircraft regardless of weight which, at the time of the accident, were being used in operations conducted under the terms of an air carrier operating certificate issued in accordance with the provisions of Parts 40 or 41 of this chapter.

3. By amending § 62.5 by deleting the words "air carrier" in the first sentence.

4. By amending § 62.6 by deleting the words "air carrier" in the first sentence.

5. By amending § 62.10 by deleting the words "air carrier" in the first sentence.

6. By amending the title of Subpart B by deleting the words "Requirements for Civil Aircraft Other Than Air Carrier Aircraft" and inserting in lieu thereof the words "Small Aircraft"

7. By adding a new § 62.30 to Subpart B to read as follows:

§ 62.30 *Applicability of this subpart.* The requirements of this subpart shall apply to aircraft of less than 12,500 pounds maximum certificated take-off weight: *Provided,* That this subpart shall not apply to aircraft which, at the time of the accident, were being used in operations conducted under the terms of an air carrier operating certificate issued in accordance with the provisions of Parts 40 or 41 of this chapter.

8. By amending § 62.39 by deleting the words "non-air carrier" in the second sentence and inserting in lieu thereof the word "aircraft"

9. By amending footnote 3 to Part 62 by deleting the words "air carrier" and inserting in lieu thereof the word "operator"

These amendments are proposed under the authority of Title VI of the Civil Aeronautics Act of 1938, as amended. The proposals may be changed in the light of comments received in response to this notice of proposed rule making.

(Sec. 205, 52 Stat. 984; 49 U. S. C. 425. Interpret or apply secs. 601–610, 52 Stat. 1007–1012; 49 U. S. C. 551–560)

Dated: July 15, 1953, at Washington, D. C.

By the Bureau of Safety Regulation.

[SEAL] JOHN M. CHAMBERLAIN, *Director*

[F. R. Doc. 53-6513; Filed, July 22, 1953; 8:55 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 3]

[Docket No. 10591]

RADIO BROADCAST SERVICES; STANDARDS OF GOOD ENGINEERING PRACTICE CONCERNING STANDARD BROADCAST STATIONS

NOTICE OF PROPOSED RULE MAKING

In the matter of amendment of section 4 of the Standards of Good Engineering Practice Concerning Standard Broadcast Stations and Part 3 of the Commission's Rules and Regulations governing Radio Broadcast Services.

1. Notice is hereby given of proposed rule making in the above entitled matter.

2. The Commission has reviewed the provisions of its Standards of Good Engineering Practice Concerning Standard Broadcast Stations with respect to blanketing requirements and believes that a revision of these requirements is warranted.

3. The Standards provide that where a station is to be located in a city which is not part of a metropolitan district the transmitter site shall be so located that the population within the 250 mv/m contour shall be less than 1 percent of the population of the city in which the main studio is located provided, however, that where it is impossible or impractical to locate a station at such a site the population within the 500 mv/m contour shall be less than 1 percent of the population of the city. Where the station is to be located in a city which is part of a metropolitan district the Standards provide that the transmitter site shall be located so that the population within the appropriate contour (i. e., 250 mv/m or 500 mv/m) shall be less than 1 percent of the population within the metropolitan district receiving primary service.

4. The blanketing requirements were designed to control the location of a broadcast transmitter so that the strong signal intensity of a broadcast station would not result in causing interference to a disproportionate number of receivers in receiving other broadcast signals, and that cross modulation be avoided.

5. Upon a review of the Commission's requirements with respect to blanketing we have concluded that the utilization of the 250 mv/m contour as one which requires special attention for this purpose should be revised. We are of the opinion that only signals of 1 v/m (1000 mv/m) or greater should be considered for this purpose.

6. We are also of the view that the utilization of different ratios for determining permissive blanketing depending on whether the city is part of a metropolitan district should not be continued. Further, we are of the view that the operation of the blanketing requirements with respect to a city which is part of a metropolitan district produces unrealistic results. For, since in this instance the blanketing requirement is related to the number of persons residing in the metropolitan district who receive service, it follows that in most cases separate requirements are applicable day and night. This result is not justified since the extent of blanketing may nevertheless remain constant.

7. Accordingly, it is proposed to provide that the 25 mv/m contour be used as the reference contour for blanketing purposes in all situations and that the population within the blanketing contour (1 v/m) not exceed 1 percent of the population in the 25 mv/m contour. We have selected the 25 mv/m contour for the reason that on the basis of relevant studies we have concluded that the population contained within this contour approximates the population within the city served. We have proposed this ratio as a reasonable balance between effects of blanketing and limitations on the issuance of authorizations.

8. Further, we are of the view that the application of the present requirements to large and small cities alike does so without proper consideration to the small number of receivers which may be affected in small cities. Where only a small number of receivers would be subjected to interference from blanketing the licensee could generally by appropriate safeguards easily prevent such interference. The rule proposed herein sets a "floor" to accommodate such situations. Accordingly, where less than 300 persons reside within the 1 v/m contour this condition will not constitute a bar to the issuance of an authorization.

9. Further, the rule proposed herein provides that the obligation of the licensee to satisfy all reasonable complaints because of blanketing is a continuing responsibility to all holders of authorizations whether or not the number of persons residing within a blanketing contour exceeds the number permitted by these standards.

10. The Standards discourage locating broadcast stations so that high signal intensities occur in areas with overhead electric power or telephone distribution systems and sections where the wiring and plumbing are old or improperly installed. It is pointed out in the Standards that these conditions result in cross modulation interference. The Standards presently provide that broadcast station transmitters will not be permitted to be located in these areas unless the licensee assumes full responsibility for adjusting complaints and it appears it can adjust all complaints satisfactorily. In the light of our experience we have concluded that the foregoing criterion is inadequate to limit the location of broadcast station transmitters so as to prevent cross modulation interference. In the issuance of authorizations for broadcast stations we must weigh in the balance the benefits to be derived from the proposed service as against the interference the proposed operation would

cause. The effects of cross modulation have been particularly acute in congested city areas. We are aware, however, that in many instances relatively low powered stations must centrally locate in the city in order to serve the city satisfactorily.

On the other hand, relatively high-powered stations can render adequate service to the city without centrally locating their antennas within the city to be served. Moreover, the interference resulting from cross modulation caused by higher-powered stations is more widespread and severe than that caused by the lower power stations. In addition, it has been our experience that interference from cross modulation has been most aggravated in those instances where the antennas of broadcast stations have been located on roof-tops. We have observed that there is a high correlation between the conditions leading to cross modulation interference and the location of antennas on roof-tops. Accordingly, we propose to amend the Standards to state that future authorizations will not be made to stations of more than 500 watts operating power which propose to use roof-top antennas or which are to be located in areas conducive to cross modulation.

11. In view of the foregoing it is proposed to amend section 4 of the Standards of Good Engineering Practice Concerning Standard Broadcast Stations and Part 3 of the Commission's Rules Governing Radio Broadcast Services as set forth below. The substantive revisions of section 4 of the Standards proposed herein relate only to the blanketing requirements and to cross modulation. Other changes in section 4 are editorial only. Authority for the issuance of the proposed amendment is vested in the Commission under sections 303 (e) (f) (r) and 4 (i) of the Communications Act of 1934, as amended.

12. Any interested party who is of the opinion that the proposed amendments should not be adopted or should not be adopted in the form set forth herein may file with the Commission on or before September 14, 1953, a written statement or brief setting forth his comments. Comments in support of the proposed amendments may also be filed on or before the same date. Comments or briefs in reply to the original comments may be filed within 10 days from the last day for filing said original comments or briefs. The Commission will consider all such comments that are submitted before taking action in this matter, and if any comments appear to warrant the holding of a hearing or oral argument, notice of the time and place of such hearing or oral argument will be given.

13. In accordance with the provisions of § 1.764 of the Commission's rules and regulations, an original and 14 copies of all statements, briefs or comments shall be furnished the Commission.

Adopted: July 15, 1953.

Released: July 16, 1953.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] T. J. SLOWIE,
Secretary.

1. It is proposed to amend § 3.14 as follows: Add a new paragraph (r) as follows:

(r) *Blanketing.* Blanketing is that form of interference which is caused by the presence of a broadcast signal of 1 v/m or greater intensity in the area adjacent to the antenna of the transmitting station. The 1 v/m contour is referred to as the blanket contour and the area within this contour is referred to as the blanket area.

2. It is proposed to amend § 3.24 as follows: Redesignate paragraph (g) as (h) and add a new paragraph (g) as follows:

(g) That the population within the 1 v/m contour does not exceed 1.0 percent of the population within the 25 mv/m contour; *Provided, however,* That where the number of persons within the 1 v/m contour is 300 or less the provisions of this subparagraph are not applicable.

3. It is proposed to add a new § 3.88 as follows:

§ 3.88 *Blanketing interference.* The licensee of each broadcast station is required to satisfy all reasonable complaints of blanketing interference within the 1 v/m contour.

4. It is proposed to amend section 4 of the Standards of Good Engineering Practice Concerning Standard Broadcast Stations to read as follows:

4. LOCATION OF TRANSMITTERS OF STANDARD BROADCAST STATIONS

A. The four primary objectives to be obtained in the selection of a site for a transmitter of a broadcast station are as follows:

(1) To serve adequately the center of population in which the studio is located and to give maximum coverage to adjacent areas.

(2) To cause and experience minimum interference to and from other stations.

(3) To present a minimum hazard to air navigation consistent with objectives 1 and 2.

(4) To fulfill certain other requirements given below.

B. The site selected should meet the following conditions:

(1) A minimum field intensity of 25 to 50 mv/m will be obtained over the business or factory areas of the city.

(2) A minimum field intensity of 5 to 10 mv/m will be obtained over the most distant residential section.

(3) The absorption of the signal is the minimum for any obtainable sites in the area. As a guide in this respect the absorption of the signals from other stations in that area should be followed, as well as the results of tests on other sites.

(4) The population within the blanket contour does not exceed that specified by § 3.24 (g).

C. In selecting a site in the center of a city it is usually necessary to place the radiating system on the top of a building. This building should be large enough to permit the installation of a satisfactory ground and/or counterpoise system. Great care must be taken to avoid selecting a building surrounded by taller buildings or where any nearby building higher than the antenna is located in the direction which it is desired to serve. Such a building will tend to cast "radio shadows" which may materially reduce the coverage of the station in that direction. Irrespective of the height of surrounding buildings, the building on which the antenna is located should not have height of approximately one-quarter wavelength. A study of antenna systems located on buildings tends to indicate that where the building is approximately a quarter wavelength in height, the efficiency of radiation may be materially reduced.

D. Particular attention must be given to avoiding cross-modulation. In this connection, attention is invited to the fact that it has been found very unsatisfactory to locate broadcast stations so that high signal intensities occur in areas with overhead electric power or telephone distribution systems and sections where the wiring and plumbing are old or improperly installed. These areas are usually found in the older or poorer sections of a city. These conditions give rise to cross-modulation interference due to the nonlinear conductivity characteristics of contacts between wiring, plumbing, or other conductors. This type of interference is independent of the selectivity characteristics of the receiver and normally can be eliminated only by correction of the condition causing the interference. Cross-modulation tends to increase with frequency and in some areas it has been found impossible to eliminate all sources of cross-modulation, resulting in an unsatisfactory condition for both licensee and listeners. The Commission will not authorize new stations, increased facilities to existing stations or auxiliary transmitters, of greater than 500 watts operating power in such areas or utilizing roof-top antennas.

E. If it is determined that a site should be selected removed from the city, there are several general conditions to be followed in determining the exact site. Three maps should be given consideration if available:

(1) Map of the density of population and number of people by sections in the area.[2a]

(2) Geographical contour map with contour intervals of 20 to 50 feet.

(3) Map showing the type, nature and depth of the soil in the area with special reference to the condition of the moisture throughout the year.

From these maps a site should be selected with a minimum number of intervening hills between it and the center of the city. In general, because of ground conditions, it is better to select a site in a low area rather than on top of a hill, and the only condition under which a site on top of a hill should be selected is that it is only possible by this means to avoid a substantial number of hills, between the site and the center of a city

[2a] See Bureau of Census series P-D and H-E available from Superintendent of Documents, Washington 25, D. C.

with the resulting radio shadows. If a site is to be selected to serve a city which is on a general sloping area, it is generally better to select a site below the city than above the city.

F. If a compromise must be made between probable radio shadows from intervening hills and locating the transmitter on top of a hill, it is generally better to compromise in favor of the low area, where an efficient radiating system may be installed which will more than compensate for losses due to shadows being caused by the hills, if not too numerous or too high. Several transmitters have been located on top of hills, but so far as data has been supplied not a single installation has given superior efficiency of propagation and coverage.

G. The ideal location of a broadcast transmitter is in a low area of marshy or "crawfishy" soil or area which is damp the maximum percentage of time and from which a clear view over the entire center of population may be had and the tall buildings in the business section of the city would cast a shadow across the minimum residential area.

H. The type and condition of the soil or earth immediately around a site is very important. Important, to an equal extent, is the soil or earth between the site and the principal area to be served. Sandy soil is considered the worst type, with glacial deposits and mineral-ore areas next. Alluvial, marshy areas and salt-water bogs have been found to have the least absorption of the signal. One is fortunate to have available such an area and, if not available, the next best condition must be selected.

I. Table B indicates the values of inductivity and conductivity which it is recommended be used for various types of country in the absence of surveys over the particular area involved. Naturally, values obtained from the use of these figures will be only approximate and should, if possible, be replaced by actual measurements in the area under consideration.

TABLE B

Type of terrain	Inductivity	Conductivity	Absorption factor at 50 miles, 1000 kc.[1]
Sea water, minimum attenuation	81	4.64×10^{-11}	1.0
Pastoral, low hills, rich soil, typical of Dallas, Tex., Lincoln, Nebr., and Wolf Point, Mont., areas.	20	3×10^{-13}	
Pastoral, low hills, rich soil, typical of Ohio and Illinois	14	10^{-13}	.17
Flat country, marshy, densely wooded, typical of Louisiana near Mississippi River.	12	7.5×10^{-14}	.13
Pastoral, medium hills, and forestation, typical of Maryland, Pennsylvania, New York, exclusive of mountainous territory and sea coasts.	13	6×10^{-14}	.09
Pastoral, medium hills, and forestation, heavy clay soil, typical of central Virginia.	13	4×10^{-14}	.05
Rocky soil, steep hills, typical of New England	14	2×10^{-14}	.025
Sandy, dry, flat, typical of coastal country	10	2×10^{-14}	.024
City, industrial areas, average attenuation	5	10^{-14}	.011
City, industrial areas, maximum attenuation	3	10^{-15}	.003

[1] This figure is stated for comparison purposes in order to indicate at a glance which values of conductivity and inductivity represent the higher absorption. This figure is the ratio between field intensity obtained with the soil constants given and with no absorption.

J. In general, broadcast transmitters operating with approximately the same power can be grouped in the same approximate area and thereby reduce the interference between them. If the city is of irregular shape, it is often possible to take advantage of this in selecting a suitable location that will give a maximum coverage. The maps giving the density of population will be a key to this. The map giving the elevation by contours will be a key to the obstructing hills between the site and city. The map of the soil conditions will assist in determining the efficiency of the radiating system that may be erected and the absorption of the signal encountered in the surrounding area.

K. Another factor to be considered is the relation of the site to airports and airways. Procedures and standards with respect to the Commission's consideration of proposed antenna structures which will serve as a guide to persons intending to apply for radio station licenses are contained in Part 17 of the Commission rules (Rules Concerning the Construction Marking and Lighting of Antenna Structures)

L. In finally selecting the site, consideration must be given to the required space for erecting an efficient radiating system, including the ground or counterpoise. It is the general practice to use direct grounds consisting of a radial buried wire system. If the area is such that it is not possible to get such ground system in soil that remains moist throughout the year, it probably will be found better to erect a counterpoise. (Such a site should be selected only as a last resort.) It, like the antenna itself, must of course be designed properly for the operating frequency and other local conditions.

M. While an experienced engineer can sometimes select a satisfactory site for a 100-watt station by inspection, it is necessary for a higher power station to make a field-intensity survey to determine that the site selected will be entirely satisfactory. There are several facts that cannot be determined by inspection that make a survey very desirable for all locations removed from the city. Often two or more sites may be selectd that appear to be of equal promise. It is only by means of field-intensity surveys taken with a transmitter at the different sites or from measurements on the signal of nearby stations traversing the terrain involved that the most desirable site can be determined. There are many factors regarding site efficiency that cannot be determined by any other method. When making the final selection of a site, the need for a field-intensity survey to establish the exact conditions cannot be stressed too strongly. The selection of a proper site for a broadcast station is an important engineering problem and can only be done properly by experienced radio engineers.

[F. R. Doc. 53-6495; Filed, July 22, 1953; 8:51 a. m.]

[47 CFR Part 8]

[Docket No. 10590]

PERIODIC CERTIFICATION OF THE CONDITION OF THE REQUIRED RADIO FACILITIES ON COMPULSORILY EQUIPPED SHIPS

NOTICE OF PROPOSED RULE MAKING

In the matter of amendment of Part 8 of the Commission's rules to require periodic certification of the condition of required radio facilities on compulsorily equipped ships.

1. Notice is hereby given of proposed rule making in the above-entitled matter.

2. As an adjunct to the Commission's inspection of radio facilities on compulsorily equipped United States ships, the Commission is proposing to amend Part 8 of the Rules governing ship radio stations to require a periodic certification of the condition of the required facilities by the ship's master. Such periodic certification would necessitate inspection by other than Commission representatives prior to certification and would provide the Commission with information concerning the condition of such radio facilities between regular Commission inspections. This procedure is proposed in the light of a planned reduction of the number of inspections heretofore made by Commission engineers.

3. The text of the proposed rule is set forth below.

4. The proposed amendments are issued under the authority of sections 303 (f) and (r) of the Communications Act of 1934, as amended.

5. Any interested person who is of the opinion that the proposed amendments should not be adopted may file with the Commission on or before September 24, 1953, a written statement or brief setting forth his comments. Persons desiring to support the amendments may also file comments by the same date. Replies to such comments may be filed within fifteen days from the last date for filing of original comments. The Commission will consider all comments and briefs presented before taking final action with respect to the proposed amendments.

6. Fifteen copies of each brief or written statement should be filed as required by § 1.764 of the Commission's rules and regulations.

Adopted: July 15, 1953.

Released: July 17, 1953.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] T. J. SLOWIE,
Secretary.

Amend § 8.501 by the addition of paragraph (c) as follows:

(c) Between annual Commission inspections of the compulsory shipboard equipment and apparatus required by Title III, Part II of the Communications Act or the radio provisions of the Safety Convention on a United States ship, there shall be sent to the Commission field office which conducted the last annual radio inspection three reports at intervals of approximately three months (a variation of more than 15 days must be satisfactorily explained in the report) containing a certification by the master of the ship with regard to the required radio equipment as follows:

I certify that the equipment and apparatus required by Title III, Part II of the Communications Act or the radio provisions of the Safety Convention on the vessel (name of ship) has been inspected on (date of inspection) by (name of persons making inspection) who to my knowledge and belief is competent to determine its condition; and that any unsatisfactory condition that was found during such inspection, or which has been notified to me by the Commission, has been corrected.

I further certify that I am satisfied that such equipment and apparatus required by law or treaty aboard the vessel meets, or will meet before the next sailing, the requirements of law and treaty in all material respects.

Master

A signed copy of each certification as hereinabove specified shall be retained in the operating room of the required radio installation on board the ship until conclusion of the next Commission annual radio inspection, so as to be readily available for review at any reasonable time by duly authorized representatives of the Commission.

[F. R. Doc. 53-6496; Filed, July 22, 1953; 8:51 a. m.]

[47 CFR Part 8]

[Docket No. 10589]

Interior Communications Systems

Notice of proposed rule making

In the matter of amendment of § 8.702 of the Commission's Rules concerning the requirements for interior communications systems on ships subject to the radio requirements of the Safety of Life at Sea Convention, London, 1948.

1. Notice is hereby given of proposed rule making in the above-entitled matter.

2. Section 8.702 which relates to Interior Communications Systems required to be provided between the radio room and navigation locations on a ship reads as follows:

§ 8.702 *Interior Communications Systems.* If a ship is navigated from a place or places other than the bridge, the interior communication system between the bridge and radio room provided under §§ 8.513 and 8.514 shall include in the system a point of communication at one of such other places in the same manner as it does the bridge.

This rule was adopted for the purpose of ensuring compliance with Regulation 9 (b) of Chapter IV of the Safety of Life at Sea Convention, London, 1948, which reads as follows:

There shall be provided between the radiotelegraph operating room and the bridge and one other place, if any, from which the ship is navigated, an efficient two-way system for calling and voice communication which shall be independent of the main communication system on the ship.

3. From the Commission's experience in administering this requirement it has become apparent that there is a need for clarification of § 8.702 for the purpose of more clearly establishing the circumstances under which an additional place of communication should be provided.

4. The apparent intent of the above-mentioned Safety Convention requirement, upon which § 8.702 is based, is to provide for a system of communication between the radio operator in the radio room and the officer on watch in control of the ship while the ship is under way on a voyage. In order for the officer on watch to receive a call from the radio room, it is necessary that the communication system be terminated at a location which will be manned at all times while the vessel is at sea. Such location would appear to be the location from which the vessel is being steered and otherwise controlled with respect to its movements.

5. Since on vessels provided with more than one location having steering and other facilities for controlling the ship, the practice varies with respect to which location is manned and used to steer the ship, it is considered desirable for administrative purposes to base the requirement for communication facilities at such additional location(s), insofar as possible, upon the provision of facilities for controlling the ship at each such location.

6. For the foregoing reasons, it is proposed to modify § 8.702 to read as follows:

§ 8.702 *Interior communications systems.* (a) If a vessel is provided with more than one location from which it is normally controlled and steered, the interior communication system between the radio room and bridge installed under §§ 8.513 and 8.514 shall include in the system a point of communication to each such location. The existence at a location of all of the following factors will be considered to be evidence that a point of communication should there be established: (1) Provision of a steering wheel, (2) provision of a compass, (3) provision of an engine order telegraph, (4) provision of apparatus to control the whistle and (5) enclosure of the location to form a wheelhouse.

(b) In any event the requirement of paragraph (a) of this section shall not apply to locations established solely for emergency use in event of failure of the normal steering facilities or locations used solely while docking or maneuvering a ship while in port or occasionally for brief periods while navigating the ship in close quarters on inland waters.

7. The proposed amendment to the rules is issued under authority of section 303 (r) of the Communications Act of 1934, as amended, and Chapter IV, Regulation 9 of the International Convention for the Safety of Life at Sea, London, 1948.

8. Any interested person who is of the opinion that the proposed amendment should not be adopted may file with the Commission on or before August 24, 1953, a written statement or brief setting forth his comments. Persons desiring to support the amendment may also file comments by the same date. Replies to such comments may be filed within seven days from the last day for filing original comments. The Commission will consider all comments and briefs before taking final action with respect to the proposed amendment.

9. Fifteen copies of each brief or written statement should be filed as required by § 1.761 of the Commission's rules and regulations.

Adopted: July 15, 1953.

Released: July 20, 1953.

Federal Communications Commission,

[SEAL] T. J. Slowie,
Secretary.

[F. R. Doc. 53-6494; Filed, July 22, 1953; 8:50 a. m.]

INTERSTATE COMMERCE COMMISSION

[49 CFR Parts 71-78, 197]

[Notice 11; Docket 3666; Docket Ex Parte MC-3; Docket Ex Parte MC-13]

Transportation of Explosives and Other Dangerous Articles

Notice of proposed rule making

July 17, 1953.

In the matter of Regulations for Transportation of Explosives and Other Dangerous Articles; Docket 3666.

In the matter of Regulations Governing the Transportation of Explosives and Other Dangerous Articles by Motor Vehicle; Docket Ex Parte MC-13.

In the matter of Need for Establishing Reasonable Requirements to Promote Safety of Operation of Motor Vehicles Used in Transporting Property by Private Carriers; Docket Ex Parte MC-3.

The Commission is in receipt of applications for early amendment of the above entitled regulations insofar as they apply to shippers in the preparation of articles for transportation, and to all carriers by rail and highway, as published in orders pursuant to section 835, of the Criminal Code and Part II of the Interstate Commerce Act.

Application for these amendments ordinarily would be considered at our next hearing in this docket. It appears, however, that the proposed amendments have been the subject of exchanges and study by interested parties, in which substantial agreement has been reached, and it is proposed that the applications be disposed of by modified procedure. The reasons for the proposed amendments are shown in the appendix, hereof.

Any party desiring to be heard upon any of the proposed amendments shall advise the Commission in writing within 20 days from the date of this notice;

otherwise, the Commission may proceed to investigate and determine the matters involved in the application, or may suspend action pending formal hearing in this docket.

[SEAL] GEORGE W LAIRD,
Acting Secretary.

PART 71—GENERAL INFORMATION AND REGULATIONS

Amend § 71.13 introductory text of paragraph (a) (15 F R. 8262, Dec. 2, 1950) (49 CFR 71.13, 1950 Rev.) to read as follows:

§ 71.13 *Emergency regulations.* (a) Until further order of the Commission, shipments of explosives may be made upon request of the Department of the Army, Navy, and Air Force of the United States Government complying with the following:

* * * * *

PART 72—COMMODITY LIST OF EXPLOSIVES AND OTHER DANGEROUS ARTICLES CONTAINING THE SHIPPING NAME OR DESCRIPTION OF ALL ARTICLES SUBJECT TO PARTS 71–78 OF THIS CHAPTER

Amend § 72.5 Commodity List (18 F R. 3133, June 2, 1953) (17 F R. 7279, Aug 9, 1952) (17 F. R. 4293, May 10, 1952) (15 F R. 8263, 8264, 8265, 8266, 8267, 8268, 8269, 8270, 8271, 8272, 8273, Dec. 2, 1950) (49 CFR 1950 Rev., 1952 Supp., 72.5) as follows:

§ 72.5 *List of explosives and other dangerous articles.* (a) * * *

Article	Classed as—	Exemptions and packing (see sec.)	Label required if not exempt	Maximum quantity in 1 outside container by rail express
Change				
Aldrin mixtures, liquid, with more than 15 percent aldrin.	Pois. B	73.361	Poison	55 gallons.
Aluminum nitrate	Oxy. M	73.182	Yellow	100 pounds.
Ammonium nitrate	Oxy. M	73.182	do	Do.
Ammonium nitrate fertilizer	Oxy. M	73.182	do	Do.
Barium nitrate	Oxy. M	73.182	do	Do.
Calcium nitrate	Oxy. M	73.182	do	Do.
*Cement, linoleum, tile, wallboard, or container, liquid.	F. L	73.118, 73.132	Red	15 gallons.
Guanidine nitrate	Oxy. M	73.182	Yellow	100 pounds.
*Ink	F. L	73.118, 73.144	Red	10 gallons.
Lead nitrate	Oxy. M	73.182	Yellow	100 pounds.
Magnesium nitrate	Oxy. M	73.182	do	Do.
Monochlorodifluoromethane	Nonf. G	73.302, 73.308, 73.314, 73.315	Green	300 pounds.
Nitrate of soda and potash	Oxy. M	73.182	Yellow	100 pounds.
Nitrates, n. o. s	Oxy. M	73.182	do	Do.
Nitro carbo nitrate	Oxy. M	73.182	do	Do.
Potassium nitrate	Oxy. M	73.182	do	Do.
Potassium nitrate mixed (fused) with sodium nitrite.	Oxy. M	73.183		
Propane. See Liquefied petroleum gas.				
Sodium nitrate	Oxy. M	73.182	Yellow	Do.
Sodium nitrite mixed (fused) with potassium nitrate.	Oxy. M	73.183		
Strontium nitrate	Oxy. M	73.182	Yellow	Do.
Tank car, containing residual phosphorus and filled with water.	See § 73.232			
Zinc nitrate	Oxy. M	73.182	Yellow	Do.
Add				
Butyl acetate	F. L	73.118, 73.119	Red	10 gallons.
Highway fuses	Expl. C	No exemption, 73.100 (r), 73.108.		200 pounds.
Isopropyl acetate	F. L	73.118, 73.119	Red	10 gallons.
Methylchloromethylether, anhydrous.	F. L	No exemption, 73.143	do	Not accepted.
Methyl ethyl ketone	F. L	73.118, 73.119	do	10 gallons.
Methyl parathion mixture, dry	Pois. B	73.377	Poison	200 pounds.
Nitrate of calcium. *See* Calcium nitrate.				
Nitrate of guanidine. *See* Guanidine nitrate.				
Nitrate of magnesium. *See* Magnesium nitrate.				
Nitrate of zinc. *See* Zinc nitrate				
Nitrate of silver. *See* Silver nitrate.				
*Nitrogen fertilizer solution	Nonf. G	73.302, 73.306, 73.314	Green	300 pounds.
Railway fuses	Expl. C	No exemption, 73.100 (r), 73.108.		200 pounds.
Railway torpedoes	Expl. B	No exemption, 73.91	Special Fireworks.	200 pounds.
Silver nitrate	Oxy. M	73.182	Yellow	100 pounds.
Torpedoes, railway or track. See Railway torpedoes.				
Toy Torpedoes. See Special fireworks.				
Cancel				
*Crude nitrogen fertilizer solution	Nonf. G	73.302, 73.306, 73.314	Green	300 pounds.
Highway signals. See Common fireworks.				
Railway fuses. See Common fireworks.				
Torpedoes, toy, railway or track. See special fireworks.				

PART 73—SHIPPERS

SUBPART A—PREPARATION OF ARTICLES FOR TRANSPORTATION BY CARRIERS BY RAIL FREIGHT, RAIL EXPRESS, HIGHWAY, OR WATER

1. Amend § 73.33 paragraphs (g) and (k) (11) (15 F R. 8281, 8282, Dec. 2, 1950) (49 CFR 73.33, 1950 Rev.) to read as follows:

§ 73.33 *Qualification, maintenance, and use of cargo tanks.* * * *

(g) Cargo tanks of the specifications shown in subparagraph (1) of this paragraph, made prior to the effective date of this order, authorized for use under regulations of the Commission effective March 1, 1935, those effective June 15, 1940, or February 1, 1942, may be continued in use as previously authorized until further order of the Commission.

(1) Where these regulations call for specification numbers:	*Containers made under the following specifications may also be used*
MC 200	7.2–S–1.
MC 201	7.2.
MC 300	7.3–S–1.2.
MC 301	7.3–S–1.3.
MC 302	7.3–S–1.4.
MC 303	7.3–S–1.5.
MC 311	MC 310 and 7.5–S–1.2.

* * * * *

(k) * * *

(11) Every cargo tank authorized for the transportation of flammable liquids and/or corrosive liquids under specifications MC 300 to MC 303 inclusive, or MC 311 (§§ 78.321 to 78.324, or 78.331 of this chapter) must be retested as provided in the applicable specification, except that retests not required on tanks equipped with rubber lining but retests must be made before such tanks are relined.

* * * * *

2. Amend § 73.34 paragraph (f) (1) (16 F R. 9373, Sept. 15, 1951) (49 CFR 1950 Rev., 1952 Supp., 73.34) to read as follows:

§ 73.34 *Qualification, maintenance, and use of cylinders.* * * *

(f) *Safety devices.* * * *

(1) Cylinders, other than those made under specification ICC–9, ICC–40, or ICC–41 (§§ 78.63, 78.66, or 78.67 of this chapter) not over 12 inches long, exclusive of neck, nor over 4½ inches outside diameter, unless containing a liquefied gas for which this part prescribes a service pressure of 1,800 pounds per square inch or higher or containing a nonliquefied gas having a pressure in the cylinder of 1,800 pounds per square inch or higher at 70° F

* * * * *

SUBPART B—EXPLOSIVES; DEFINITIONS AND PREPARATION

1. Amend § 73.62 paragraph (a) (18 F R. 802, Feb. 7, 1953) (49 CFR 73.62, 1950 Rev.) to read as follows:

§ 73.62 *High explosives, liquid.* (a) Liquid explosives as defined in § 73.53

(e) must be packed in specification containers as follows:

(1) Spec. 15L (§ 78.176 of this chapter) Wooden boxes which must be plainly marked on top and on one side or end "HIGH EXPLOSIVES—DANGEROUS" in letters not less than 7/16 inch in height. The tops of boxes must be marked "THIS SIDE UP"

(2) Spec. 15M (§ 78.177 of this chapter) Wooden boxes. Metal inside containers shall contain not more than 10 quarts liquid explosives each. Boxes must be plainly marked on top and on one side or end "HIGH EXPLOSIVES—DANGEROUS" in letters not less than 7/16 inch in height. The tops of boxes must be marked "THIS SIDE UP"

(3) Spec. MC–200 (§ 78.315 of this chapter). Motor vehicle container.

* * * * *

2. Amend § 73.63 paragraphs (d) (1) and (d) (2) (18 F. R. 802, Feb. 7, 1953) (15 F. R. 8288, Dec. 2, 1950) (49 CFR 73.63, 1950 Rev.) to read as follows:

§ 73.63 *High explosive with liquid explosive ingredient.* * * *

(d) * * *

(1) Spec. 23G (§ 78.218 of this chapter) Fiberboard boxes. Not more than one cartridge in each box. High explosives packed in boxes consisting of more than one tube joined circumferentially are exempt from the requirements of § 73.61 (f) and (g) or when packed in boxes consisting of one tube closed at the ends are exempt from the requirements of § 73.61 (d) to (g) inclusive. Gross weight of boxes not to exceed 65 pounds.

(2) Spec. 14, 15A, or 16A (§§ 78.165, 78.168, or 78.185 of this chapter) wooden boxes, or spec. 23F or 23H (§§ 78.214 or 78.219 of this chapter) fiberboard boxes, with inside containers which must be cartridges not exceeding 12 inches in diameter or 50 pounds in weight with length not to exceed 36 inches, or bags not exceeding 12½ pounds each. Bags if not completely sealed against leakage by method of closure must be packed with filling holes up. Gross weight of wooden boxes not to exceed 75 pounds and gross weight of fiberboard boxes not to exceed 65 pounds.

* * * * *

3. Amend § 73.65 paragraph (d) (15 F. R. 8289, Dec. 2, 1950) (49 CFR 73.65, 1950 Rev.) to read as follows:

§ 73.65 *High explosives with no liquid explosive ingredient nor any chlorate.* * * *

(d) The following materials may be shipped dry, in quantity not exceeding 4 ounces in one outside package for medicinal purposes or as reagents, by carriers by rail freight, rail express, highway, or water, as drugs, medicines, or chemicals, without other restrictions, when in securely closed bottles or jars properly cushioned to prevent breakage:

(1) Ammonium picrate.
(2) Dipicrylamine.
(3) Dipicryl sulfide.
(4) Dinitrophenylhydrazine.
(5) Nitroguanidine.
(6) Picramide.
(7) Picric acid.
(8) Picryl chloride.
(9) Trinitroanisole.
(10) Trinitrobenzene.
(11) Trinitrobenzoic acid.
(12) Trinitro-m-cresol.
(13) Trinitronaphthalene.
(14) Trinitroresorcinol.
(15) Trinitrotoluene.
(16) Urea nitrate.

* * * * *

4. Amend entire § 73.79 (16 F. R. 11776, Nov. 21, 1951) (15 F. R. 8292, Dec. 2, 1950) (49 CFR 1950 Rev., 1952 Supp., 73.79) to read as follows:

§ 73.79 *Jet thrust units (jato), class A.* (a) Jet thrust units (jato), class A, must not be shipped with igniters assembled therein unless shipped by, for, or to the Departments of the Army, Navy, and Air Force of the United States Government. These units must be packed in outside containers complying with the following specifications:

(1) Spec. 14, 15A, 15E, or 16A (§§ 78.165, 78.168, 78.172, or 78.185 of this chapter) Wooden boxes or wooden boxes, fiberboard lined.

(b) Jet thrust units (jato), class A, packed in any other manner must be in containers of a type approved by the Bureau of Explosives.

(c) Each outside package must be plainly marked "JET THRUST UNITS, CLASS A"

(d) Jet thrust units must not be offered for transportation by rail express, except as provided in §§ 73.86 and 75.675 of this chapter.

5. Add paragraph (a) (5) and amend paragraphs (a) (3), (f) (1), and (i) to § 73.91 (15 F. R. 8294, Dec. 2, 1950) (49 CFR 73.91, 1950 Rev.) to read as follows:

§ 73.91 *Special fireworks.* (a) * * *

(3) Spec. 12B (§ 78.205 of this chapter) Fiberboard boxes. Gross weight not to exceed 65 pounds except as provided in paragraph (a) (5) of this section. Not permitted for illuminating projectiles, toy torpedoes, aeroplane flares, and fireworks shells or fireworks bombs of which the mortar or firing device is not an integral part.

* * * * *

(5) Ship distress signals when packed in tight inside metal containers of not less than 24 gauge sheet iron or other metal of equal strength, securely closed by positive means (not friction) and of such design and so arranged as to completely fill the outside container, may be packed in spec. 12B (§ 78.205 of this chapter) fiberboard boxes. Gross weight not to exceed 95 pounds when boxes are made in accordance with § 78.205–29 of this chapter.

* * * * *

(f) * * *

(1) Spec. 15A, 15B, 16A, 19A, or 19B (§§ 78.168, 78.169, 78.185, 78.190, or 78.191 of this chapter). Wooden boxes. Net weight not to exceed 125 pounds.

* * * * *

(i) *Marking.* Each outside container of special fireworks must be plainly marked in letters not less than 7/16 inch in height "SPECIAL FIREWORKS—HANDLE CAREFULLY—KEEP FIRE AWAY", except that each outside container of railway torpedoes must be plainly marked in letters not less than 7/16 inch in height "RAILWAY TORPEDOES—HANDLE CAREFULLY—KEEP FIRE AWAY"

* * * * *

6. Amend entire § 73.92 (16 F. R. 11776, Nov. 21, 1951) (15 F. R. 8294, Dec. 2, 1950) (49 CFR 1950 Rev., 1952 Supp., 73.92) to read as follows:

§ 73.92 *Jet thrust units (jato) class B.* (a) Jet thrust units (jato) Class B, must not be shipped with igniters assembled therein unless shipped by, for, or to the Departments of the Army, Navy, and Air Force of the United States Government. These units must be packed in outside containers complying with the following specifications:

(1) Spec. 14, 15A, 15E, or 16A (§§ 78.165, 78.168, 78.172, or 78.185 of this chapter) Wooden boxes or wooden boxes, fiberboard lined.

(b) Jet thrust units (jato) class B, packed in any other manner must be in containers of a type approved by the Bureau of Explosives.

(c) Each outside package must be plainly marked "Jet Thrust Units, Class B"

(d) Jet thrust units must not be offered for transportation by rail express, except as provided in §§ 73.86 and 75.675 of this chapter.

7. Amend § 73.108 paragraphs (b) (1) and (d) (16 F. R. 9374, Sept. 15, 1951) (15 F. R. 8297, Dec. 2, 1950) (49 CFR 1950 Rev., 1952 Supp., 73.108) to read as follows:

§ 73.108 *Common fireworks.* * * *

(b) * * *

(1) Spec. 15A, 15B, 15C, 16A, 19A, or 19B (§§ 78.168, 78.169, 78.170, 78.185, 78.190, or 78.191 of this chapter. Wooden boxes. Gross weight not to exceed 150 pounds for spec. 19B boxes; 200 pounds for others. When spec. 15C boxes are used, devices must be packed in air-tight inside metal containers.

* * * * *

(d) Each outside package must be plainly marked in letters not less than 7/16 inch in height "COMMON FIREWORKS—HANDLE CAREFULLY—KEEP FIRE AWAY" except that each outside package of railway fusees or highway fusees must be plainly marked in letters not less than 7/16 inch in height "RAILWAY FUSEES" or "HIGHWAY FUSEES—HANDLE CAREFULLY—KEEP FIRE AWAY"

SUBPART C—FLAMMABLE LIQUIDS; DEFINITION AND PREPARATION

1. Add paragraph (c) (23) to § 73.118 (15 F. R. 8298, Dec. 2, 1950) (49 CFR 73.118, 1950 Rev.) to read as follows:

§ 73.118 *Exemptions for flammable liquids.* * * *

(c) * * *

(23) Methylchloromethyl ether, anhydrous.

2. Amend § 73.119 paragraphs (a) (7), (a) (8), (b) (4), and (k) (1) (15 F. R. 8298, 8299, 8300, Dec. 2, 1950) (49 CFR 73.119, 1950 Rev.) to read as follows:

§ 73.119 *Flammable liquids not specifically provided for.* (a) * * *

(7) Spec. 12B (§ 78.205 of this chapter). Fiberboard boxes with inside con-

tainers which must be glass or earthenware, not over 1 quart each; metal cans, not over 1 gallon each.

(8) Spec. 15A, 15B, 15C, 16A, 19A, or 19B (§§ 78.168, 78.169, 78.170, 78.185, 78.190, or 78.191 of this chapter) Wooden boxes with inside containers which must be glass or earthenware, not over 1 gallon each, except that inside containers up to 3 gallons each are authorized when only one inside container is packed in each outside container; or metal pails, kits, or cans, not over 10 gallons each.

* * * * *

(b) * * *

(4) Spec. 12B (§ 78.205 of this chapter) Fiberboard boxes with inside containers which must be glass, earthenware, or metal, not over 1 gallon each. Packages containing inside glass or earthenware containers must not contain more than 4 such inside containers if their capacity is greater than 5 pints each.

[Note 1 remains unchanged.]

* * * * *

(k) * * *

(1) As prescribed in paragraphs (a) or (b) of this section, irrespective of flash point.

* * * * *

3. Amend entire § 73.132 (18 F. R. 3135, June 2, 1953) (15 F. R. 8302, Dec. 2, 1950) (49 CFR 73.132, 1950 Rev.) to read as follows:

§ 73.132 *Container cement, linoleum cement, pyroxylin cement, rubber cement, tile cement, and wallboard cement.* (a) Container cement, linoleum cement, pyroxylin cement, rubber cement, tile cement, and wallboard cement must be packed in specification containers as follows:

(1) As prescribed in § 73.119, irrespective of flash point or viscosity, except that spec. 10A or 10B (§§ 78.155 or 78.156 of this chapter) wooden barrels and kegs, must not be used.

NOTE 1. Because of the present emergency and until further order of the Commission, rubber cement containing no carbon bisulfide may be shipped in specification 10A (§ 78.155 of this chapter) wooden barrels or kegs.

4. Add § 73.143 (15 F R. 8302, Dec. 2, 1950) (49 CFR 73.143, 1950 Rev.) to read as follows:

§ 73.143 *Methylchloromethyl ether anhydrous.* (a) Methylchloromethyl ether, anhydrous, must be packed in specification containers as follows:

(1) Spec. 5K (§ 78.88 of this chapter) Nickel barrels or drums.

(b) Methylchloromethyl ether, anhydrous, must not be offered for transportation by rail express.

5. Add § 73.144 (15 F R. 8302, Dec. 2, 1950) (49 CFR 73.144, 1950 Rev.) to read as follows:

§ 73.144 *Inks.* (a) Inks must be packed in specification containers as follows:

(1) In containers as prescribed in § 73.119, according to flash point, pressure, or viscosity.

(2) Spec. 17C (§ 78.115 of this chapter) Full removable head metal drums (single-trip).

SUBPART D—FLAMMABLE SOLIDS AND OXIDIZING MATERIALS; DEFINITION AND PREPARATION

1. Amend entire § 73.182 (15 F R. 8307, 8308, Dec. 2, 1950) (49 CFR 73.182, 1950 Rev.) to read as follows:

§ 73.182 *Aluminum nitrate, ammonium nitrate, ammonium nitrate fertilizer barium nitrate, calcium nitrate, guanidine nitrate, lead nitrate, magnesium nitrate, nitrate of soda and potash, nitrates, n. o. s., nitro carbo nitrate, potassium nitrate, silver nitrate, sodium nitrate, strontium nitrate and zinc nitrate.* (a) Aluminum nitrate, ammonium nitrate, ammonium nitrate fertilizer, barium nitrate, calcium nitrate, guanidine nitrate, lead nitrate, magnesium nitrate, nitrate of soda and potash, nitrates, n. o. s., nitro carbo nitrate, potassium nitrate, silver nitrate, sodium nitrate, strontium nitrate and zinc nitrate when offered for transportation by carriers by rail freight, rail express, highway or water must be packed in containers as follows:

(1) When packed in inside containers not over 1 pound net weight each in outside containers not exceeding 25 pounds net weight each are exempt from specification packaging, marking, and labeling requirements for transportation by rail freight, rail express, highway, and carriers by water, except that shipments by water carrier shall be subject to the marking requirements to the extent of showing the name of contents on the packages.

(2) When packed in metal cans, glass bottles, or other inside containers in outside fiberboard or wooden boxes; in kegs or barrels; in metal cans; or in metal or fiber drums are exempt from specification packaging and labeling requirements for transportation by rail freight, rail express, highway and water (see also § 73.402 (c))

(3) When packed in bags not exceeding 200 pounds net weight, moisture proof, made tight against sifting and of strength not less than bags made of 8-ounce burlap are exempt from specification packaging requirements for transportation by rail freight, rail express, highway and water (see also § 73.402 (c) (d) and (e)) Rail shipments must be in clean closed cars which shall be free of loose boards, cracks, holes, or exposed decayed spots; interior of cars must be swept clean and be free of any projections capable of injuring bags; doors of cars must have tight closure; journals and boxes must be in good condition; and ammonium nitrate, ammonium nitrate fertilizer or guanidine nitrate must not be shipped in all-metal cars (see also § 74.541 (a) (1) of this chapter) Highway shipments must be in closed or open type motor vehicles which must be swept clean and be free of any projections capable of injuring bags; and when shipped in open type motor vehicles the lading shall be suitably covered (see also § 77.823 (a) (4) and (a) (5) of this chapter) Water shipments are also subject to Regulations for Explosives or Other Dangerous Articles on Board Vessels prescribed by the Commandant United States Coast Guard (46 CFR Part 146),

(4) When shipped in bulk by rail freight must be loaded in clean closed cars which shall be free of loose boards, cracks, holes, or exposed decayed spots; interior of cars must be swept clean; doors of cars must have tight closure; journals and boxes must be in good condition; and ammonium nitrate; ammonium nitrate fertilizer, or guanidine nitrate must not be shipped in all-metal cars (see also § 74.541 (a) (2) of this chapter) When shipped in bulk by motor vehicle it must be loaded in closed or open type motor vehicles which must be swept clean; and when shipped in open type motor vehicles the lading shall be suitably covered (see also § 77.823 (a) (4) and (a) (5) of this chapter) Bulk shipments on freight vessels are subject to the Regulations for Explosives or Other Dangerous Articles on Board Vessels prescribed by the Commandant United States Coast Guard (46 CFR Part 146)

(b) Nitrates, or materials containing ammonium nitrate, other than those specifically named in § 72.5 (Commodity List) of this chapter, such as ammonium sulfate nitrate, calcium ammonium nitrate, ammonium nitrate limestone, fertilizer compounds, n. o. i. b. n., manufactured fertilizer, nitrolime, nitramoncal, calnitro, calomite, etc., when classed as oxidizing materials under these regulations, shall be described on shipping papers as "NITRATES, N. O. S." and packed for transportation in accordance with subparagraphs (a) (1), (a) (2), (a) (3), or (a) (4) of this section.

2. Amend entire § 73.183 (18 F R. 3135, June 2, 1953) (15 F R. 8308, Dec. 2, 1950) (49 CFR 73.183, 1950 Rev.) to read as follows:

§ 73.183 *Nitrate of potassium mixed (fused) with nitrite of sodium.* (a) Nitrate of potassium mixed (fused) with nitrite of sodium may be shipped by rail freight when packed in specification containers as follows:

(1) Spec. 103–W (§ 78.280 of this chapter) Tank cars specially designed, equipped and approved for this service without bottom discharge outlet and with heavier plate thicknesses than the minimum prescribed for cars built under this specification. For specification 103–W tank cars made of plates having the minimum prescribed thicknesses, internal reinforcement of the upper sheets of tank in the region of the dome and reinforcing plates attached to the bottom sheet of the tank which rests on bolsters is required, and these tanks must be equipped with baffle plates. Heater pipes must be of welded construction designed for a test pressure of 500 pounds per square inch. A 1-inch woven asbestos lining must be placed between bolster slabbing and bottom of tank to prevent heat transmission. Safety vents of the frangible disc type may be used and if used the frangible discs must be perforated with ⅛ inch hole. If safety valves are used a vacuum relief valve must be installed on the dome. Tanks must be stenciled on both sides "FUSED POTASSIUM NITRATE AND SODIUM NITRITE ONLY".

A. Amend § 73.190 paragraph (b) (4) (15 F. R. 8308, 8309, Dec. 2, 1950) (49 CFR 73.190, 1950 Rev.) to read as follows:

§ 73.190 *Phosphorus, white or yellow.* * * *

(b) * * *

(4) Spec. MC 311 (§ 78.331 of this chapter) Tank motor vehicles, without bottom outlet and with insulation at least 4 inches in thickness, except that 2 inches of insulation is authorized for tanks equipped with an exterior heating jacket. Interior heating coils are not authorized. The material must be immersed in water and must be loaded at a temperature not exceeding 140° F. and then cooled until the water has a temperature not exceeding 105° F. before being offered for transportation.

* * * * *

SUBPART E—ACIDS AND OTHER CORROSIVE LIQUIDS; DEFINITION AND PREPARATION

1. Amend § 73.247 paragraph (a) (9) (15 F. R. 8314, Dec. 2, 1950) (49 CFR 73.247, 1950 Rev.) to read as follows:

§ 73.247 *Acetyl chloride, antimony pentachloride, benzoyl chloride, benzyl chloride, pyro sulfuryl chloride, silicon chloride, sulfur chloride (mono and di), sulfuryl chloride, thionyl chloride, tin tetrachloride (anhydrous), and titanium tetrachloride.* (a) * * *

(9) Spec. MC 311 (§ 78.331 of this chapter) Tank motor vehicles. Benzyl chloride must be stabilized when loaded in unlined tanks.

* * * * *

2. Amend § 73.248 paragraph (a) (6) (15 F. R. 8314, Dec. 2, 1950) (49 CFR 73.248, 1950 Rev.) to read as follows:

§ 73.248 *Acid sludge, sludge acid, spent sulfuric acid, or spent mixed acid.* (a) * * *

(6) Spec. MC 311 (§ 78.331 of this chapter) Tank motor vehicles.

* * * * *

3. Amend § 73.249 paragraph (a) (6) (15 F. R. 8314, Dec. 2, 1950) (49 CFR 73.249, 1950 Rev.) to read as follows:

§ 73.249 *Alkaline corrosive liquids, n. o. s., alkaline caustic liquids, n. o. s., and alkaline battery fluids.* (a) * * *

(6) Spec. MC 311 (§ 78.331 of this chapter) Tank motor vehicles, marked "For Caustic Soda, Liquid Only", or "For Caustic Potash Liquid Only"

* * * * *

4. Amend § 73.254 paragraph (a) (5) (16 F. R. 5325, June 6, 1951) (49 CFR 1950 Rev., 1952 Supp., 73.254) to read as follows:

§ 73.254 *Chlorosulfonic acid and mixtures of chlorosulfonic acid-sulfur trioxide.* (a) * * *

(5) Spec. MC 311 (§ 78.331 of this chapter) Tank motor vehicles.

5. Add paragraph (a) (3) to § 73.256 (15 F. R. 8315, Dec. 2, 1950) (49 CFR 73.256, 1950 Rev.) to read as follows:

§ 73.256 *Compounds, cleaning, liquid.* (a) * * *

(3) Spec. 22B (§ 78.197 of this chapter) Plywood drums equipped with bag-type liners of type and material approved by the Bureau of Explosives.

6. Amend § 73.257 paragraph (a) (4) (15 F. R. 8315, Dec. 2, 1950) (49 CFR 73.257, 1950 Rev.) to read as follows:

§ 73.257 *Electrolyte (acid) or corrosive battery fluid.* (a) * * *

(4) Spec. MC 311 (§ 78.331 of this chapter) Tank motor vehicles, except that unlined tanks must not be used.

* * * * *

7. Amend § 73.263 paragraph (a) (10) (15 F. R. 8317, Dec. 2, 1950) (49 CFR 73.263, 1950 Rev.) to read as follows:

§ 73.263 *Hydrochloric (muratic) acid, hydrochloric acid mixtures, and sodium chlorite solution.* (a) * * *

(10) Spec. MC 311 (§ 78.331 of this chapter) Tank motor vehicles, lined with rubber or equally acid-resistant material of equivalent strength and durability.

* * * * *

8. Amend § 73.264 paragraphs (a) (14) and (b) (3) (15 F. R. 8317, 8318, Dec. 2, 1950) (49 CFR 73.264, 1950 Rev.) to read as follows:

§ 73.264 *Hydrofluoric acid.* (a) * * *

(14) Spec. MC 311 (§ 78.331 of this chapter). Tank motor vehicles.

* * * * *

(b) * * *

(3) Spec. MC 311 (§ 78.331 of this chapter). Tank motor vehicles.

* * * * *

9. Amend § 73.265 paragraph (b) (4) (17 F. R. 1562, Feb. 20, 1952) (49 CFR 1950 Rev., 1952 Supp., 73.265) to read as follows:

§ 73.265 *Hydrofluosilicic acid.* * * *

(b) * * *

(4) Spec. MC 311 (§ 78.331 of this chapter). Tank motor vehicles, lined with rubber.

* * * * *

10. Amend § 73.266 paragraph (e) (15 F. R. 8319, Dec. 2, 1950) (49 CFR 73.266, 1950 Rev.) to read as follows:

§ 73.266 *Hydrogen peroxide solution in water* * * *

(e) Hydrogen peroxide solution in water not exceeding 52 percent hydrogen peroxide by weight not subject to Parts 71–78 of this chapter when shipped in tank cars, tank motor vehicles, or portable tanks in carload or truckload quantities only.

* * * * *

11. Amend § 73.267 paragraph (a) (7) (15 F. R. 8319, Dec. 2, 1950) (49 CFR 73.267, 1950 Rev.) to read as follows:

§ 73.267 *Mixed acid (nitric and sulfuric acid) (nitrating acid)* (a) * * *

(7) Spec. MC 311 (§ 78.331 of this chapter). Tank motor vehicles. (See paragraph (b) of this section.)

* * * * *

12. Amend § 73.268 paragraph (b) (3) (15 F. R. 8319, Dec. 2, 1950) (49 CFR 73.268, 1950 Rev.) to read as follows:

§ 73.268 *Nitric acid.* * * * *

(b) * * *

(3) Spec. MC 311 (§ 78.331 of this chapter). Tank motor vehicles.

* * * * *

13. Amend § 73.271 paragraph (a) (8) (15 F. R. 8321, Dec. 2, 1950) (49 CFR 73.271, 1950 Rev.) to read as follows:

§ 73.271 *Phosphorus oxychloride, phosphorus trichloride, and thiophosphoryl chloride.* (a) * * *

(8) Spec. MC 311 (§ 78.331 of this chapter). Tank motor vehicles when tanks are lead-lined.

* * * * *

14. Amend § 73.272 paragraphs (h) (2) and (i) (3) (15 F. R. 8321, Dec. 2, 1950) (49 CFR 73.272, 1950 Rev.) to read as follows:

§ 73.272 *Sulfuric acid.* * * *

(h) * * *

(2) Spec. MC 311 (§ 78.331 of this chapter). Tank motor vehicle.

* * * * *

(i) * * *

(3) Spec. MC 311 (§ 78.331 of this chapter) Tank motor vehicles (rubber-lined).

* * * * *

15. Amend § 73.273 paragraph (a) (4) (15 F. R. 8321, Dec. 2, 1950) (49 CFR 73.273, 1950 Rev.) to read as follows:

§ 73.273 *Sulfur trioxide, stabilized.* (a) * * *

(4) Spec. 103A or 103A–W (§§ 78.266 or 78.281 of this chapter) Tank cars. Authorized only for stabilized sulfur trioxide. Cars equipped with interior heater coils not permitted.

16. Amend § 73.289 paragraph (a) (4) (18 F. R. 804, Feb. 7, 1953) (49 CFR 73.289, 1950 Rev.) to read as follows:

§ 73.289 *Formic acid and formic acid solutions.* (a) * * *

(4) Spec. MC 311 (§ 78.331 of this chapter). Tank motor vehicles.

* * * * *

SUBPART F—COMPRESSED GASES; DEFINITION AND PREPARATION

1. Amend the entries "Anhydrous Ammonia", and "Insecticide, liquefied gas" in paragraph (a) Table; cancel Note 13 to paragraph (a) § 73.308 (18 F. R. 3136, June 2, 1953) (17 F. R. 9837, 9838, Nov. 1, 1952) (49 CFR 1950 Rev., 1952 Supp., 73.308) to read as follows:

§ 73.308 *Compressed gases in cylinders.* (a) * * *

Kind of gas	Maximum permitted filling density (see Note 12)	Cylinders (see Note 11) marked as shown in this column must be used except as provided in Note 1 and § 73.24 (a) to (e).
	Percent	
Anhydrous ammonia	54	ICC-4; ICC-3A480; ICC-3AA480; ICC-3A480X; ICC-4A480; ICC-3; ICC-4B480 without brazed seams; ICC-4BA480 without brazed seams.
Insecticide, liquefied gas (see Note 6)	(7)	ICC-3A300; ICC-3AA300; ICC-3B300; ICC-4B300; ICC-4BA300; ICC-3; ICC-4; ICC-4l.

* * * * *

[Cancel Note 13.]

2. Cancel the entry "Crude nitrogen fertilizer solution" add the entry "Nitrogen fertilizer solution" and amend the entry "Butadiene (pressure not exceeding 75 pounds per square inch at 105° F" in § 73.314 paragraph (a) table, and amend paragraph (g) (18 F. R. 3136, June 2, 1953) (17 F R. 9838, Nov. 1, 1952) (49 CFR 1950 Rev., 1952 Supp., 73.314) to read as follows:

§ 73.314 *Compressed gases in tank cars.* (a) * * *

Kind of gas	Maximum permitted filling density, Note 1	Required type of tank car, Note 2
	Percent	
Butadiene (pressure not exceeding 75 pounds per square inch at 105° F.), inhibited.	Note 3	ICC-104A, 104A-W, Note 9.
Nitrogen fertilizer solution	Note 6	ICC-106A500, 106A500X, 105A300, 105A300W.

* * * * *

(g) The maximum quantity of any liquefied gas, except crude nitrogen fertilizer solution, dichlorodifluoromethane-monofluorotrichloromethane mixture, fertilizer ammoniating solution containing free ammonia, liquid carbon dioxide, methyl chloride, and vinyl chloride, inhibited, loaded into tanks mounted on one car structure must not exceed 60,000 pounds: *Provided,* That for single-unit tank car tanks having water weight capacities not less than 86,240 pounds nor over 90,640 pounds, lagged with 4 inches of corkboard, equipped with one or more safety valves set to open at a pressure of 225 pounds per square inch, the total discharge capacity of which must be sufficient to prevent building up of pressure in the tank in excess of 225 pounds per square inch, mounted on one car structure, tank jackets stenciled ICC-105A300 (§ 78.271 of this chapter) if tanks are forge-welded, and ICC-105A300W (§ 78.286 of this chapter) if tanks are fusion-welded, and in all other respects constructed and maintained in full compliance with I. C. C. shipping container specification 105A500 or 105A500W (§§ 78.273 or 78.288 of this chapter) the quantity of liquefied chlorine gas or liquefied sulfur dioxide gas loaded into such tanks must be not more than 110,000 pounds and the quantity of liquefied chlorine gas loaded into such tanks must be at least 107,800 pounds. (See Appendix D to Subpart I of Part 78 of this chapter.)

3. Add the entry "Monochlorodifluoromethane" in paragraph (a) (1) Table § 73.315 (17 F. R. 9839, Nov. 1, 1952) (49 CFR 1950 Rev., 1952 Supp., 73.315) to read as follows:

§ 73.315 *Compressed gases in cargo tanks and portable tank containers.* (a) * * *

(1) * * *

Kind of gas	Maximum permitted filling density		Specification container required	
	Percent by weight (see Note 1)	Percent by volume (see par. (f) of this section)	Type (see Note 2)	Minimum design working pressure (p. s. i. g.)
Monochlorodifluoromethane	105	See Note 7	ICC-51, MC-330	250.

* * * * *

SUBPART G—POISONOUS ARTICLES; DEFINITION AND PREPARATION

4. Add Note 1 to paragraph (a) (2) § 73.333 (17 F. R. 9839, Nov. 1, 1952) (49 CFR 1950 Rev., 1952 Supp., 73.333) to read as follows:

§ 73.333 *Phosgene or diphosgene.* (a) * * *

(2) * * *

NOTE 1: Tanks complying with Spec. 106A500 or 106A500X (§ 78.275 of this chapter) may be transported on trucks or semi-trailers only, when securely chocked or clamped thereon to prevent shifting, and provided adequate facilities are present for handling tanks where transfer in transit is necessary.

* * * * *

5. Amend § 73.361 introductory text of paragraph (a) and add paragraph (b) (17 F R. 7283, Aug. 9, 1952) (49 CFR 1950 Rev., 1952 Supp., 73.361) to read as follows:

§ 73.361 *Aldrin mixtures, liquid, with more than 15 percent aldrin.* (a) Aldrin mixtures, liquid, with more than 15 percent aldrin must be shipped in specification containers as follows:

* * * * *

(b) Aldrin mixtures, liquid, containing not more than 15 percent aldrin and no other material classed as dangerous under these regulations, are exempt from specification packaging, marking, and labeling requirements.

6. Amend § 73.364 paragraphs (a) (1) and (a) (2) (15 F. R. 8336, Dec. 2, 1950) (49 CFR 73.364, 1950 Rev.) to read as follows:

§ 73.364 *Exemptions for poisonous solids, class B.* (a) * * *

(1) In inside glass, earthenware, or composition bottles or jars, or metal containers, or lock-corner sliding-lid wooden boxes, of not over 5 pounds capacity each, except carbolic acid (phenol) in glass containers must not exceed 1 pound capacity each; or chipboard, pasteboard, or fiber cartons, cans, or boxes, of not over 1 pound capacity each, packed in outside wooden or fiberboard boxes, or wooden barrels or kegs. Net weight of contents of outside container not over 100 pounds.

(2) In inside chipboard, pasteboard, or fiber cartons, cans, or boxes, of not over 5 pounds capacity each, packed in outside fiberboard or wooden boxes. Not more than 6 of these cartons shall be packed in any outside container.

7. Amend § 73.369 paragraphs (a) (6) and (a) (7) (15 F R. 8337, Dec. 2, 1950) (49 CFR 73.369, 1950 Rev.) to read as follows:

§ 73.369 *Carbolic acid (phenol), not liquid.* (a) * * *

(6) Spec. 12D (§ 78.207 of this chapter) Fiberboard boxes with inside containers which must be: Glass or earthenware not over 1 gallon or 5 pounds capacity each; authorized for not more than 75 pounds gross weight; not to contain more than 4 such inside containers if their capacity is greater than 5 pints each.

(7) Spec. 15A, 15B, 15C, 16A, or 19A (§§ 78.168, 78.169, 78.170, 78.185, or 78.190 of this chapter) Wooden boxes with glass or earthenware inside containers not over 1 gallon or 5 pounds capacity each, except that inside containers up to 3 gallons or 15 pounds capacity each are authorized when only 1 is packed in each outside container; or with metal inside containers not over 10 gallons capacity each.

* * * * *

8. Amend § 73.377 introductory text of paragraph (a) and paragraph (e) (17 F R. 4295, May 10, 1952) (49 CFR 1950 Rev., 1952 Supp., 73.377) to read as follows:

§ 73.377 *Hexaethyl tetraphosphate mixtures, methyl parathion mixtures, parathion mixtures, tetraethyl dithio pyrophosphate mixtures, and tetraethyl pyrophosphate mixtures, dry.* (a) Hexaethyl tetraphosphate mixtures, methyl parathion mixtures, parathion mixtures, tetraethyl dithio pyrophosphate mixtures, and tetraethyl pyrophosphate mixtures in which the liquid is absorbed in concentrations greater than 2 percent but not exceeding 27 percent in an inert dry material so as to form a dry mixture, must be packed in specification containers as follows:

* * * * *

(e) Dry mixtures containing not more than 2 percent by weight of hexaethyl tetraphosphate, methyl parathion, parathion, tetraethyl dithio pyrophosphate, or tetraethyl pyrophosphate, and in which the liquid is absorbed in an inert material, are exempt from specification packaging, marking, and labeling requirements.

PART 74—CARRIERS BY RAIL FREIGHT

SUBPART B—LOADING AND STORAGE CHART OF EXPLOSIVES AND OTHER DANGEROUS ARTICLES

1. Amend § 74.538 paragraph (a) Chart item (b) vertical and horizontal columns by inserting under item (d), vertical and horizontal columns, the letter X, amend footnote (a) (17 F. R. 1563, Feb. 20, 1952) (49 CFR 1950 Rev., 1952 Supp., 74.538) to read as follows:

§ 74.538 *Loading and storage chart of explosives and other dangerous articles.* (a) * * *

Blasting caps or electric blasting caps in quantities not exceeding 1,000 caps may also be loaded and transported with articles named in vertical and horizontal columns 3, 9, 10, 11, 12 and 13. Loading and transportation of blasting caps or electric blasting caps in any quantity with articles named

in vertical or horizontal columns b, c, e or f is prohibited.

* * * * *

2. Amend § 74.549 paragraph (a) (5) (15 F. R. 8351, Dec. 2, 1950 (49 CFR 74.549, 1950 Rev.) to read as follows:

§ 74.549 *Application of placards.* (a) * * *

(5) Paper placards must be securely pasted to metal or other smooth surfaces. Metal placard boards must be used when provided for the purpose. Grease or other substances which interfere with secure application must be removed from surfaces before pasting on placards.

* * * * *

PART 77—SHIPMENTS MADE BY WAY OF COMMON, CONTRACT, OR PRIVATE CARRIERS BY PUBLIC HIGHWAY

SUBPART A—GENERAL INFORMATION AND REGULATIONS

1. Add paragraph (a) (1) to § 77.817 (15 F. R. 8363, Dec. 2, 1950) (49 CFR 77.817, 1950 Rev.) to read as follows:

§ 77.817 *Shipping papers.* (a) * * *

(1) Every motor carrier offering for rail transportation on a flat car a loaded motor vehicle or loaded motor vehicle trailer containing any shipment of an explosive or other dangerous article shall show on the bill of lading, shipping order, shipping paper, or other billing issued in lieu thereof, in addition to the description of the vehicle, the proper and definite name of the commodity as listed in § 72.5 of this chapter.

2. Amend § 77.823 paragraphs (a) and (b) (3) (18 F. R. 3139, June 2, 1953) (15 F. R. 8364, Dec. 2, 1950) (49 CFR 77.823, 1950 Rev.) to read as follows:

§ 77.823 *Marking on motor vehicles and trailers*—(a) *Motor vehicles and trailers other than tank motor vehicles.* Except as otherwise provided in Part 73 of this chapter, every motor vehicle transporting explosives or other dangerous articles must be marked or placarded as follows:

(1) Every motor vehicle transporting any quantity of class A explosives must be marked or placarded "EXPLOSIVES" on each side and rear with a placard or lettering in letters not less than 3 inches high on a contrasting background.

(2) Every motor vehicle transporting any quantity of class A poisons must be marked or placarded "POISON GAS" on each side and rear with a placard or lettering in letters not less than 3 inches high on a contrasting background.

(3) Every motor vehicle transporting any quantity of radioactive material, class D poison, requiring red radioactive materials label must be marked or placarded "DANGEROUS—RADIOACTIVE MATERIAL" on each side and rear with a placard or lettering in letters not less than 3 inches high on a contrasting background.

(4) Every motor vehicle transporting 2,500 pounds gross weight or more of explosives class B, flammable liquids, flammable solids, oxidizing materials, acids or other corrosive liquids, compressed gases (see Note 1), class B poisons, class C poisons, and class D poisons not requiring red radioactive material label must be marked or placarded "DANGEROUS" on each side and rear with a placard or lettering in letters not less than 3 inches high on a contrasting background: *Provided, however,* That if such articles are, because of size and kind of containers, exempted from the packaging, marking, and labeling requirements of Part 73 of this chapter, and provided such exempted commodities do not have a gross weight (contents and containers) exceeding 5,000 pounds, the provisions of this subparagraph shall not be applicable.

NOTE 1: Where the words "COMPRESSED GAS" are now painted, stenciled, or otherwise permanently marked on motor vehicles other than cargo tank motor vehicles, it may be so continued until such motor vehicles are repainted, restenciled, or both, and at such time shall be replaced with the word "DANGEROUS"

(5) Every motor vehicle transporting 5,000 pounds gross weight or more of one or more different classes of dangerous articles set forth in subparagraph (4) of this paragraph, must be marked or placarded "DANGEROUS" on each side and rear with a placard or lettering in letters not less than 3 inches high on a contrasting background: *Provided, however* That mixed lading of two or more classes of dangerous articles in the same motor vehicle shall conform to the provisions of § 77.848.

(6) Except as provided in § 74.544 of this chapter, every motor vehicle or trailer containing explosives class B or other dangerous articles offered for rail transportation on a flat car as part of a joint rail-highway movement must be placarded by the motor carrier or his duly authorized agent on the front, rear, and both sides with the placards prescribed for use on freight cars in § 74.541 of this chapter. Placards shall be applied to such motor vehicles or trailers by the methods prescribed in § 74.549 of this chapter.

(b) * * *

(3) Until December 31, 1953, with the name of the carrier or his trade-mark, when and only when such name or mark plainly indicates the flammable nature of the cargo.

* * * * *

SUBPART B—LOADING AND UNLOADING

1. Amend § 77.835 paragraph (g) (15 F. R. 8365, Dec. 2, 1950) (49 CFR 77.835, 1950 Rev.) to read as follows:

§ 77.835 *Explosives.* * * *

(g) *Blasting caps and/or electric blasting caps in same vehicle with other explosives.* Blasting caps and/or electric blasting caps, without limitation as to quantity except as limited in paragraph (m) of this section may be transported in the same motor vehicle with high explosives (dynamite), when the net weight of the high explosives (dynamite) does not exceed 5,000 pounds, as follows: The blasting caps and electric blasting caps must be packed in authorized I. C. C. specification outside shipping containers, or in prescribed inside I. C. C. packages in an outside box made of 1 inch lumber lined with suitable padding material not less than ½ inch thick or a box made of not less than 12 gauge sheet metal lined with plywood or other suitable material not less than ⅜ inch thick so that no metal is exposed. Hinged cover and fastening device are required on boxes. These boxes must be loaded in motor vehicle so that contents or box will be immediately accessible for removal and so that other containers in the motor vehicle will not fall on them or otherwise damage them during transit. Blasting caps or electric blasting caps, when not packed in containers referred to above in this paragraph, must be transported in containers as prescribed in spec. MC201 (§ 78.318 of this chapter) See paragraph (m) of this section for shipment of blasting caps with liquid nitroglycerin, desensitized liquid nitroglycerin or diethylene glycol dinitrate. Explosive projectiles with detonating fuzes assembled in place must not be transported unless shipped by, for, or to the Departments of the Army, Navy, and Air Force of the United States Government, or unless of a type approved by the Bureau of Explosives.

* * * * *

2. Amend § 77.841 Note 1 to paragraph (c) (18 F. R. 3139, June 2, 1953) (49 CFR 77.841, 1950 Rev.) to read as follows:

§ 77.841 *Poisons.* * * *
(c) * * *

NOTE 1: Tanks complying with specification 106A500 or 106A500X (§ 78.275 of this chapter), containing nitrogen dioxide, liquid (nitrogen peroxide, tetroxide) or phosgene, may be transported on trucks or semitrailers only, when securely chocked or clamped thereon to prevent shifting, and provided adequate facilities are present for handling tanks where transfer in transit is necessary.

* * * * *

3. Amend § 77.848 paragraph (a) Chart item (b) vertical and horizontal columns by inserting under item (d), vertical and horizontal columns, the letter X; Amend footnote (a) (17 F. R. 1564, Feb. 20, 1952) (49 CFR 1950 Rev., 1952 Supp., 77.848) to read as follows:

§ 77.848 *Loading and storage chart of explosives and other dangerous articles.* (a) * * *

* Blasting caps or electric blasting caps in quantities not exceeding 1,000 caps may also be loaded and transported with articles named in vertical and horizontal columns 3, 9, 10, 11, 12 and 13. Loading and transportation of blasting caps or electric blasting caps except as prescribed in § 77.835, in any quantity, with articles named in vertical or horizontal columns b, c, e or f is prohibited.

* * * * *

PART 78—SHIPPING CONTAINER SPECIFICATIONS

SUBPART A—SPECIFICATIONS FOR CARBOYS, JUGS IN TUBS, AND RUBBER DRUMS

1. Add Note 1 to paragraph (b) and amend paragraph (c) in § 78.1–9 (15 F. R. 8374, Dec. 2, 1950) (49 CFR 78.1–9, 1950 Rev.) to read as follows:

§ 78.1 *Specification 1A, boxed carboys.* Glass, earthenware, clay, or stoneware.

* * * * *

§ 78.1–9 *Tests.* * * *
(b) * * *

NOTE 1: In instances where 99 or less carboys are in service during either 6-month

period of the year it shall be acceptable to test 10 percent of the total but not less than 3 carboys on either the side or bottom swing. If this provision is used, the report of test results must so state.

(c) *Acceptable results.* 90 percent of carboys must not break under side shock and same for bottom shock, except both results must be 100 percent if modified test authorized by Note 1 of § 78.1–9 (b) is used.

* * * * *

2. Add Note 1 to paragraph (b) and amend paragraph (c) in § 78.3–9 (15 F. R. 8375, Dec. 2, 1950) (49 CFR 78.3–9, 1950 Rev.) to read as follows:

§ 78.3 *Specification 1C; carboys in kegs.* Glass, earthenware, clay or stoneware.

* * * * *

§ 78.3–9 *Tests.* * * *
(b) * * *

NOTE 1: In instances where 99 or less carboys are in service during either 6-month period of the year it shall be acceptable to test 10 percent of the total but not less than 3 carboys on either the side or bottom swing. If this provision is used, the report of test results must so state.

(c) *Acceptable results.* 90 percent of carboys must not break under side shock and same for bottom shock, except both results must be 100 percent if modified test authorized by Note 1 of § 78.3–9 (b) is used.

* * * * *

3. Add Note 1 to paragraph (b) and amend paragraph (c) in § 78.4–8 (15 F R. 8376, Dec. 2, 1950) (49 CFR 78.4–8, 1950 Rev.) to read as follows:

§ 78.4 *Specification 1D; boxed glass carboys.*

* * * * *

§ 78.4–8 *Tests.* * * *
(b) * * *

NOTE 1. In instances where 99 or less carboys are in service during either 6-month period of the year it shall be acceptable to test 10 percent of the total but not less than 3 carboys on either the side or bottom swing. If this provision is used, the report of the test results must so state.

(c) *Acceptable results.* 90 percent of carboys must not break under side shock and same for bottom shock, except both results must be 100 percent if modified test authorized by Note 1 of § 78.4–8 (b) is used.

* * * * *

4. Add Note 1 to paragraph (b) and amend paragraph (c) in § 78.6–10 (15 F. R. 8378, Dec. 2, 1950) (49 CFR 78.6–10, 1950 Rev.) to read as follows:

§ 78.6 *Specification 1EX; glass carboys in plywood drums.* Single trip container.

* * * * *

§ 78.6–10 *Tests.* * * *
(b) * * *

NOTE 1. In instances where 99 or less carboys are in service during either 6-month period of the year it shall be acceptable to test 10 percent of the total but not less than 3 carboys on either the side or bottom swing. If this provision is used, the report of the test results must so state.

(c) *Acceptable results.* 90 percent of carboys must not break under side shock and same for bottom shock, except both results must be 100 percent if modified test authorized by Note 1 of § 78.6–10 (b) is used.

* * * * *

5. Add Note 1 to paragraph (b) and amend paragraph (c) in § 78.7–8 (16 F R. 11782, Nov. 21, 1951) (49 CFR 1950 Rev., 1952 Supp., 78.7–8) to read as follows:

§ 78.7 *Specification 1E; glass carboys in plywood drums.*

* * * * *

§ 78.7–8 *Tests.* * * *
(b) * * *

NOTE 1. In instances where 99 or less carboys are in service during either 6-month period of the year it shall be acceptable to test 10 percent of the total but not less than 3 carboys on either the side or bottom swing. If this provision is used, the report of the test results must so state.

(c) *Acceptable results.* 90 percent of carboys must not break under side shock and same for bottom shock, except both results must be 100 percent if modified test authorized by Note 1 of § 78.7–8 (b) is used.

* * * * *

6. Amend § 78.11–2 paragraph (a) (18 F R. 805, Feb. 7, 1953) (49 CFR 78.11–2, 1950 Rev.) to read as follows:

§ 78.11 *Specification 1G; polyethylene carboys in wooden or glued plywood boxes.*

* * * * *

§ 78.11–2 *Capacity and marking of carboy.* (a) Containers 5 to 15 gallons capacity are classed as carboys. Actual capacity must be the marked capacity plus 5 percent minimum. Must be permanently marked to indicate capacity, maker, month and year of manufacture; mark of maker to be registered with the Bureau of Explosives.

SUBPART D—SPECIFICATIONS FOR METAL BARRELS, DRUMS, KEGS, CASES, TRUNKS AND BOXES

1. Amend § 78.83–7 paragraph (a) Table and add footnote 2 (15 F R. 8435, Dec. 2, 1950) (49 CFR 78.83–7, 1950 Rev.) to read as follows:

§ 78.83 *Specification 5C; steel barrels or drums.* Removable head containers not authorized.

* * * * *

§ 78.83–7 *Parts and dimensions.* (a) * * *

Marked capacity not over (gallons)	Type of container	Minimum thickness in the black (gauge, U. S. standard)		Rolling hoops		
		Body sheet	Head sheet	Type [1]	Minimum size (gauge or inch)	Minimum weight (pounds per foot)
15	Straight side	20	20	None		
30	do	18	18	I-bar	¾ x 1¼	1.25
55	do	16	16	do [2]	1 x 1½	1.60
110	do	14	14	do [2]	1 x 1½	1.60
15	Bilge	16	16	None		
30	do	14	16	do		
55	do	13	14	do		

* * * * * * *

[2] Stainless steel I bar rolling hoops ¾ x 1½ inches, weighing not less than 1.27 pounds per foot, are authorized.

2. Amend § 78.115–12 paragraph (a) (2) (15 F. R. 8448, Dec. 2, 1950) (49 CFR 78.115–12, 1950 Rev.) to read as follows:

§ 78.115 *Specification 17C; steel drums.*

* * * * *

§ 78.115–12 *Type tests.* (a) * * *

(2) Hydrostatic pressure test of 40 pounds per square inch sustained for 5 minutes; except that full removable head drums must sustain 30 pounds per square inch.

SUBPART E—SPECIFICATIONS FOR WOODEN BARRELS, KEGS, BOXES, KITS, AND DRUMS

1. Add § 78.172 (15 F. R. 8469, Dec. 2, 1950) (49 CFR 78.172, 1950 Rev.) to read as follows:

§ 78.172 *Specification 15E; wooden boxes, fiberboard lined.*

§ 78.172–1 *Compliance.* (a) Required in all details.

§ 78.172–2 *Closed box.* (a) Parts and pieces to be in close contact.

§ 78.172–3 *Ends.* (a) Butt-joint glued to fiberboard. Plywood not authorized.

§ 78.172–4 *Sides, top, and bottom.* (a) Butt-joint or plywood glued to fiberboard.

§ 78.172–5 *Lumber.* (a) To be well seasoned, commercially dry, and free from decay, loose knots, knots that would interfere with nailing, and other defects that would materially lessen the strength. Grain of wood in cleats must not cross cleat within ½ its length.

(b) Plywood, if used, shall be free of knots, decay, and other visible defects that interfere with the nailing. Plywood used must be of good commercial box or sheathing grade veneer.

§ 78.172–6 *Grouping of principal woods.* (a) Grouping as follows:

GROUP 1

White pine.	Willow.
Norway pine.	Noble fir.
Aspen (popple).	Magnolia.
Western (yellow) pine.	Buckeye.
	White fir.
Cottonwood.	Cedar.
Balsam fir.	Redwood.
Yellow poplar.	Butternut.
Chestnut.	Cucumber.
Sugar pine.	Alpine fir.
Cypress.	Lodgepole pine.
Basswood.	Jack pine.

GROUP 2

Southern yellow pine.	North Carolina pine.
Hemlock.	Douglas fir.
	Larch (tamarack).

GROUP 3

White elm.	Black ash.
Red gum.	Tupelo.
Sycamore.	Maple—soft or silver.
Pumpkin ash.	
Black gum.	

GROUP 4

Hard maple.	Birch.
Beech.	Rock elm.
Oak.	Hickory.
Hackberry.	White ash.

§ 78.172–7 *Width of pieces.* (a) At least 2½ inches.

§ 78.172–8 *Thickness of wood parts.* (a) Thickness as follows:

Authorized gross weight of box not over (pounds)	Style of box (see Notes 2 and 3)	Minimum thickness (see Note 1) of sides, top and bottom in inches		Minimum thickness of ends and cleats in inches		Minimum width of cleats in inches	Size of nails in ends (penny)	
		Groups 1 and 2	Groups 3 and 4	Groups 1 and 2	Groups 3 and 4		Groups 1 and 2	Groups 3 and 4
150	1, 2, 2½, 3 or 4	5/16	5/16	½	½	1¾	4	4
250	2½, 3 or 4	7/32	5/16	5/8	9/16	1⅞	5	4
350	2½ or 3	¼	7/32	⅝	11/16	2¼	6	5
450	2½ or 3	5/16	¼	25/32	25/32	2¼	6	5
550	2½ or 3	⅜	5/16	13/16	13/16	2½	7	6

NOTE 1: Plywood of equal thickness is permitted in sides, top and bottom.
NOTE 2: Thickness of ends in style 1 boxes shall be not less than 25/32 inch and load limit shall be not more than 100 pounds.
NOTE 3: Style 4 boxes shall have load limit of 200 pounds.

§ 78.172–9 *Assembly.* (a) By nails, screws, staples or other devices of equal efficiency. Nails, screws, and staples must be driven flush.

§ 78.172–10 *Nails and nailing.* (a) Cement coated nails of size and with spacing detailed in §§ 78.172–8, 78.172–11 and 78.172–12.

(b) At cleated edges drive at least 40 percent of nails into cleats.

(c) Nails fastening cleats to ends be staggered and clinch ⅛ inch; uncoated nails authorized.

§ 78.172–11 *Nails; kind and dimensions.* (a) Cement [1] coated of gauge and length as for "sinkers" and "coolers" as generally known to the trade; size in penny as prescribed in § 78.172–8.

§ 78.172–12 *Nail spacing.* [2] (a) Nail spacing as follows:

Nails (size)	Maximum spacing when driven into end and cleats	
	Side grain	End grain
	Inches	*Inches*
Fourpenny	1½	1¾
Fivepenny	1¾	1½
Sixpenny	2	1¾
Sevenpenny	2¼	2

§ 78.172–13 *Classification of board.* (a) Fiberboard is hereby classified by strength [3] of completed board as in first column of the following table; weights specified in the table are the minimum authorized:

Authorized gross weight of box not over (pounds)	Classified strength [3] of completed board	Solid fiberboard minimum combined weight of component plies exclusive of adhesives (pounds per 1,000 sq. ft.)	Facings for corrugated fiberboard double-faced minimum combined weight of facings (pounds per 1,000 sq. ft.)
150	200	190	84
250	275	237	138
350	325	237	138
450	350	283	189
550	375	283	189

[3] Mullen or Cady test (minimum).

§ 78.172–14 *Solid fiberboard.* (a) To be 3-ply or more; both outer plies water resistant.

§ 78.172–15 *Corrugated fiberboard.* (a) Both outer facings water resistant; corrugated sheets must be at least 0.009 inch thick and weigh not less than 26 pounds per 1,000 square feet; all parts must be securely glued together throughout all contact areas.

§ 78.172–16 *Test.* (a) Acceptable board must have prescribed strength, Mullen or Cady test, after exposure for at least 3 hours to normal atmospheric conditions (50 to 70 percent relative humidity) under test as follows:

(1) Clamp board firmly in machine and turn wheel thereof at constant speed of approximately 2 revolutions per second.

(2) Six punctures required, 3 from each side; all results but one must show prescribed strength.

(3) Board failing may be retested by making 24 punctures, 12 from each side; when all results but 4 show prescribed strength the board is acceptable.

(4) For corrugated fiberboard, double-pop tests may be disregarded.

§ 78.172–17 *Assembly.* (a) The sheet of fiberboard to which are glued the boards forming the sides, top and bottom box sections, shall be properly scored to form a tube. The joint shall be on a side, top or bottom, near the center of the face, and located under one of the wood boards of the face.

(1) A water resistant glue shall be used to attach the fiberboard to the wood. The glue shall be applied in ribbons (lines) at right angles to the scores of the tube. The ribbons of glue shall be not less than 1¼" wide and shall be spaced sufficiently close so that glue will cover not less than 25 percent of the surface of the fiberboard. The ribbons of glue shall be equally spaced on the length of the box with the outside ribbons flush with the ends of the tube. Glue shall be applied to the fiberboard on the ends of the box in like amount as on the tube.

(2) For styles 2, 2½, and 3, all faces of the tube shall extend over the end boards and cleats. For style 4, all faces shall extend over the end boards, but only the side sections shall extend over the cleats.

(3) The boards between score lines, shall butt against each other when placed on the fiberboard, and the combined widths of the boards shall be approximately equal to the inside dimension of the respective box section so that the boards completely cover the fiberboard between the inside edges of adjacent scores.

(4) A sheet of fiberboard shall be attached to each end as provided in paragraph (a) (1) of this section and shall completely cover the inside of the end.

§ 78.172–18 *Closing for shipment.* (a) Box shall be securely closed. Nails, if used, shall be as prescribed in §§ 78.172–8, 78.172–10, 78.172–11, and 78.172–12.

§ 78.172–19 *Marking.* (a) Marking on each box with letters and figures at least ½" high in rectangle as follows:

ICC–15E***

(1) The stars must be replaced by authorized gross weight (for example, ICC–15E100, etc.). This mark shall be understood to certify that box complies with all specification requirements.

2. Add § 78.177 (15 F R. 8470, Dec. 2, 1950) (49 CFR 78.177, 1950 Rev.) to read as follows:

§ 78.177 *Specification 15M, wooden boxes, metal lined, with inside containers for desensitized liquid explosives.*

§ 78.177–1 *Compliance.* (a) Required in all details.

§ 78.177–2 *Size and capacity.* (a) Each outside wooden container shall contain not more than 6 inside metal containers having nominal capacity of 10 quarts each.

§ 78.177–3 *Outside containers* (a) Wooden boxes cleated as prescribed. Parts must be in close contact and completely enclose inside containers. Lumber must be well seasoned, commercially dry, and free from decay, loose knots,

[1] Uncoated nails authorized when increased 25 percent in number.

[2] To determine number of nails, divide length of nailing edge by spacing; fractions greater than ½ are considered as whole numbers. Each piece of sides, top and bottom shall be nailed to the ends with at least two nails through each end of the piece.

[3] Mullen or Cady test (minimum).

knots that would interfere with assembly, or other defects that materially lessen the strength.

(1) The box shall be lined with copper or other nonsparking metal having suitable strength. All seams must be soldered, welded, or brazed to produce a liquid-tight container having no openings in the bottom, sides, or ends.

(b) Assembly. Use brass screws throughout, countersunk and with heads covered with suitable wood filling compound. Any screw used to secure a metal attachment shall be soldered, welded, or brazed thereto. Metal parts used in the construction of or attached to the box or cover must be of nonsparking type. Fasten bottom securely with edges flush with sides and ends of box. Cleats must extend around entire perimeter of box. Apply top and bottom cleats horizontally. Bottom cleats must be flush with bottom surface of the box. Top cleats must extend above top of box to provide a ¾-inch recess for cover projections (§ 78.177-5) Cover must be flush with outside surface of top cleats. Cleats may be mitered but must butt at all corners.

(c) Cellular construction: The interior of the box shall be divided into cells by means of removable, nonmetallic, nonsparking dividers, into which the rubber boots or secondary containers fit snugly. The cells shall be of such size as to extend from the bottom to near the top of the rubber boots or secondary containers.

(d) Parts and dimensions as follows:

[Minimum dimensions in inches]

Thickness, sides, top, bottom, and ends	Top cleats	Bottom cleats	Cover cleats
¾	⅝ x 3½	⅝ x 2¾	¾ x 2

§ 78.177-4 *Inside containers.* (a) Inside containers must be as follows:

(1) *Metal containers.* The individual inside containers shall be made in a workmanship manner, of copper or other nonsparking material of suitable strength, with all seams soldered, welded, or brazed to be liquid tight. The top shall be fitted with a securely attached carrying handle of copper or other nonsparking material of suitable strength. Each inside container must have a filling and pouring spout in the top, which shall be securely closed with rubber stoppers, paraffin, or oil-treated corks or other nonmetallic, nonsparking closures which are resistant to absorption of the contents and which provide a leakproof seal. The closures shall be secured in such manner as to prevent loosening, displacement, and leakage of contents during transit. Each inside container may have sufficient capacity in excess of 10 quarts to provide for outage requirements. Each side of the container must be strengthened vertically by at least 3 equally spaced indented crimps.

(2) *Rubber boots or secondary containers.* Each inside metal container must be contained in a rubber boot or other similar suitable leakproof, nonmetallic, nonabsorbent outer container, which must fit snugly in cellular structure provided in § 78.177-3 (c) The rubber boot or secondary container must be liquid tight and shall be so constructed as to have an inside height approximately that of the inside metal container plus closure and otherwise so constructed that the bottom will provide cushioning for the inner container.

(b) Tests: Each inside metal and rubber or secondary container must be adequately tested and inspected during manufacture to insure against leakage.

§ 78.177-5 *Closure.* (a) The box cover must be securely fastened to the box in a manner to prevent movement of the inside containers. The inner surface of the box cover must be lined with suitable coating material or sheathed with nonsparking metal to provide a nonabsorbent surface. The cover must be secured to the box by means of nylon, or other suitable straps, and be so positioned to furnish a smooth bearing surface on all faces of the box. There shall be no protruding parts on the box or cover which would result in metal-to-metal contact.

§ 78.177-6 *Marking.* (a) Marking on each box with letters and figures at least ½ inch high in rectangle as follows:

ICC-15M

(1) This mark shall be understood to certify that box complies with all specification requirements.

3. Add § 78.191 (15 F R. 8473, Dec. 2, 1950) (49 CFR 78.191, 1950 Rev.) to read as follows:

§ 78.191 *Specification 19B; wooden boxes, glued plywood, nailed.*

§ 78.191-1 *Compliance.* (a) Required in all details.

§ 78.191-2 *Authorized gross weight.* (a) Authorized gross weight not to exceed 150 pounds.

§ 78.191-3 *Plywood.* (a) Plywood shall be made from veneer which has been rotary cut, sliced or sawed. It shall be well seasoned and commercially dry free from decay, objectionable knots, that interfere with nailing, splits, gaps, and other defects that materially lessen the strength. Plywood shall be of good commercial box or sheathing grade.

(b) Plywood shall be at least 5 ply each ply alternately glued with the grain at right angles to the one next.

§ 78.191-4 *Nails.* (a) Cement coated and of size specified for "sinkers" or "coolers" as generally known to the trade.

(b) Nail spacing as follows:

Nail (size) in penny	Maximum spacing when driven into end and corner posts	
	Side grain	End grains
	Inches	*Inches*
Threepenny	1¼	1
Fourpenny	1½	1¼
Fivepenny	1¾	1½
Sixpenny	2	1¾
Sevenpenny	2¼	2
Eightpenny	2½	2¼
Ninepenny	2¾	2½
Tenpenny	3	2½

§ 78.191-5 *Corner construction.* (a) Boxes exceeding 35 pounds gross weight must have 4 vertical corner posts, or other equally suitable devices or fasteners; nailed lap-joint permitted for others.

§ 78.191-6 *Assembly.* (a) Assemble with grain of outer plywood face in the direction of the longest faces of the box and securely nail or fasten to corner posts or ends as provided in §§ 78.191-4 and 78.191-5.

§ 78.191-7 *Special tests.* (a) Samples of each type and size manufactured, taken at random, and filled with dummy contents the shape and size of expected contents, or with sand or sawdust, to the gross weight at which container is marked, closed as for use, must be capable of withstanding the following tests without serious rupture or exposure of contents:

(1) 8 drops from height of 1 foot, one on each corner, onto solid concrete.

§ 78.191-8 *Closing for shipment.* (a) Box to be securely closed. Nails, if used, must be as prescribed in § 78.191-3; hinges and hasps or other equally efficient device authorized.

§ 78.191-9 *Marking.* (a) Marking on each container with letters and figures at least ½ inch high in rectangle as follows:

ICC-19B***

(1) The stars must be replaced by authorized gross weight (for example ICC-19B150) This mark shall be understood to certify that box complies with all specification requirements.

(2) Name of maker located just above, below, or following the mark specified in paragraph (a) of this section; symbol (letters) authorized if registered with the Bureau of Explosives.

SUBPART F—SPECIFICATIONS FOR FIBERBOARD BOXES, DRUMS, AND MAILING TUBES

1. Amend entire § 78.205-17 and add § 78.205-29 (15 F R. 8475, 8476, Dec. 2, 1950) (49 CFR 78.205-17, 78.205-29, 1950 Rev.) to read as follows:

§ 78.205 *Specification 12B; fiberboard boxes.*

* * * * *

§ 78.205-17 *Closing for shipment.* (a) Slotted container, by coating with adhesive the entire contact surfaces of closing flaps and fill-in pieces, or as prescribed in subparagraph (1) or (2)

(1) By stitching at 2½-inch intervals along all seams (one 5-inch space allowed when necessary to permit use of stitching device)

(2) For fiberboard boxes containing not more than 1 inside metal can not exceeding 1 gallon nominal capacity, by application of 2 strips of pressure-sensitive tape not less than ½ inch in width, 1 strip to be placed approximately equal distance over the seam of abutting outer flaps, the other at a right angle to the first and spaced approximately equal distance on the closure face; strips must be of sufficient length to extend not less than 1 inch beyond score lines on side and end panels. Tape shall have a mini-

mum tensile strength of 160 pounds per inch of width; minimum adhesion value of 18 ounces per inch of width; and minimum elongation of 12 percent at break.

(b) Double slide boxes or triple slide boxes, by coating with adhesive the inner slides; for single-flap closures as authorized for boxes with one dimension not over 2 inches, the flaps must be fastened to the body with adhesive.

(c) Fiberboard boxes with covers extending over sides but not to bottom, covers resting on walls of box, or telescope boxes of equal depth section, covers extending to bottom, must be secured by one of the following methods:

(1) By not less than three metal straps, one lengthwise and others at right angles thereto.

(2) When cover extends not less than 3 inches over the walls of the box, by coating with adhesive the entire contact area of the cover.

(d) When metal straps are specified, boxes must be strapped with the required number; size at least ⅝ inch x 0.015 inch.

§ 78.205–29 *Special box; authorized only for ship distress signals in inside metal containers of not less than 24 gauge metal.* (a) Must comply with this specification except as follows: Must be one-piece type of double faced corrugated board at least 350-pound test, with top and bottom pads of the same material. Gross weight not to exceed 95 pounds.

2. Amend entire § 78.206–17 (15 F. R. 8477, 8478, Dec. 2, 1950) (49 CFR 78.206–17, 1950 Rev.) to read as follows:

§ 78.206 *Specification 12C; fiberboard boxes.*

* * * * *

§ 78.206–17 *Closing for shipment.* (a) Slotted container, by coating with adhesive the entire contact surfaces of closing flaps and fill-in pieces, or as prescribed in subparagraphs (1) or (2) of this section.

(1) By stitching at 2½-inch intervals along all seams (one 5-inch space allowed when necessary to permit use of stitching device.

(2) For fiberboard boxes containing not more than 1 inside metal can not exceeding 1 gallon nominal capacity, by application of 2 strips of pressure-sensitive tape not less than ½ inch in width, 1 strip to be placed approximately equal distance over the seam of abutting outer flaps, the other at a right angle to the first and spaced approximately equal distance on the closure face; strips must be of sufficient length to extend not less than 1 inch beyond score lines on side and end panels. Tape shall have a minimum tensile strength of 160 pounds per inch of width; minimum adhesion value of 18 ounces per inch of width; and minimum elongation of 12 percent at break.

(b) Double slide boxes or triple slide boxes, by coating with adhesive the inner slides; for single-flap closures as authorized for boxes with one dimension not over 2 inches, the flaps must be fastened to the body with adhesive.

(c) Fiberboard boxes with covers extending over sides but not to bottom, covers resting on walls of box, or telescope boxes of equal depth section, covers extending to bottom, must be secured by one of the following methods:

(1) By not less than three metal straps, one lengthwise and others at right angles thereto.

(2) When cover extends not less than 3 inches over the walls of the box, by coating with adhesive the entire contact area of the cover.

(d) When metal straps are specified, boxes must be strapped with the required number; size at least ⅝ inch x 0.015 inch.

3. Amend entire § 78.207–17 (15 F. R. 8478, Dec. 2, 1950) (49 CFR 78.207–17, 1950 Rev.) to read as follows:

§ 78.207 *Specification 12D; fiberboard boxes.*

* * * * *

§ 78.207–17 *Closing for shipment.* (a) Slotted container, by coating with adhesive the entire contact surfaces of closing flaps and fill-in pieces, or as prescribed in subparagraphs (1) or (2) of this section.

(1) By stitching at 2½-inch intervals along all seams (one 5 inch space allowed when necessary to permit use of stitching device).

(2) For fiberboard boxes containing not more than 1 inside metal can not exceeding 1 gallon nominal capacity, by application of 2 strips of pressure-sensitive tape not less than ½ inch in width, 1 strip to be placed approximately equal distance over the seam of abutting outer flaps, the other at a right angle to the first and spaced approximately equal distance on the closure face; strips must be of sufficient length to extend not less than 1 inch beyond score lines on side and end panels. Tape shall have a minimum tensile strength of 160 pounds per inch of width; minimum adhesion value of 18 ounces per inch of width; and minimum elongation of 12 percent at break.

(b) Double slide boxes or triple slide boxes, by coating with adhesive the inner slides; for single-flap closures as authorized for boxes with one dimension not over 2 inches, the flaps must be fastened to the body with adhesive.

(c) Fiberboard boxes with covers extending over sides but not to bottom, covers resting on walls of box, or telescope boxes of equal depth section, covers extending to bottom, must be secured by one of the following methods:

(1) By not less than three metal straps, one lengthwise and others at right angles thereto.

(2) When cover extends not less than 3 inches over the walls of the box, by coating with adhesive the entire contact area of the cover.

(d) When metal straps are specified, boxes must be strapped with the required number; size at least ⅝ inch by 0.015 inch.

4. Amend §§ 78.214–4 paragraph (a), 78.214–8 paragraph (a), 78.214–15 paragraph (b), and add paragraph (b) to § 78.214–6 and paragraph (c) to § 78.214–16 (16 F. R. 11783, Nov. 21, 1951) (15 F. R. 8479, 8480, Dec. 2, 1950) (49 CFR 1950 Rev., 1952 Supp., §§ 78.214–4, 78.214–8, 78.214–6, 78.214–15) to read as follows:

§ 78.214 *Specification 23F; fiberboard boxes.*

* * * * *

§ 78.214–4 *Corrugated fiberboard.* (a) Both outer facings water resistant; corrugated sheets at least 0.009 inch thick; all parts securely glued together throughout all contact areas; each facing at least 0.016 inch; except when only one lining tube is used as provided by § 78.214–15 (b) corrugated sheets at least 0.010 inch thick with facings at least 0.023 inch must be used.

§ 78.214–6 *Tape* * * *

(b) Paper tape for closure (see § 78.214–16) must be coated with glue, be of 2 sheets Kraft paper laminated with asphaltic or resin combined with synthetic, glass, or natural fibers satisfactorily dispersed therein, and at least equal to that prescribed in paragraph (a).

§ 78.214–8 *Type authorized.* (a) Of solid fiberboard; 1-piece, or 3-piece without recessed heads, fitted with lining tube or lining tubes as prescribed in § 78.214–15, except that lining tubes are not required for boxes used for shipment of electric blasting caps packed in accordance with § 73.66 (g) (1) of this chapter. Boxes having handholes are authorized when approved by the Bureau of Explosives.

§ 78.214–15 *Authorized gross weight (when packed) and parts required.* * * *

(b) Authorized gross weight: 65 pounds when 2 or more lining tubes are used to divide the box into 2 or more compartments; 65 pounds when 1 or more lining tubes are used and contents will consist of 1 cartridge only or of black powder in bags; 65 pounds when boxes without lining tubes are used for electric blasting caps packed in accordance with § 73.66 (g) (1) of this chapter; 35 pounds in all other cases except that boxes having a single solid fiberboard lining tube at least 0.120 inch thick, or corrugated fiberboard lining tube as prescribed in § 78.214–4 (a) are authorized for 65 pounds gross weight.

§ 78.214–16 *Closing for shipment.* * * *

(c) Or, by use of paper tape as prescribed in § 78.214–6 (b) Three strips of tape having a minimum width of 2 inches must be used, 1 strip to be applied approximately equal distance across the top face of box over the seam formed by abutting or overlapping outer flaps and extend onto the side panels a minimum distance of 1 inch beyond the top score line. The 2 other strips shall be placed parallel and approximately equal distance over the joint formed by the top flaps and the side; each strip shall cover a minimum of 30 percent of the center part of this joint.

SUBPART I—SPECIFICATIONS FOR TANK CARS

1. Amend § 78.280 paragraph ICC–3 (a) and paragraph AAR–3 (a) (16 F. R. 11783, Nov. 21, 1951) (15 F. R. 8505, Dec. 2, 1950) (49 CFR 1950 Rev. 1952 Supp., 78.280) to read as follows:

§ 78.280 *Specification for tank cars having fusion-welded steel tanks Class ICC–103–W* * * *

ICC–3. *Material.* (a) All plates for tank and expansion dome must be made of open-hearth boiler plate steel of flange quality, the carbon content of which shall not exceed 0.31 percent. These plates may also be clad with other metals, such as nickel, etc.

* * * * *

AAR–3. (a) All plates used for tank and expansion dome, where expansion dome is required, must be of open hearth, boiler plate steel of flange quality complying with requirements of current A. A. R. Specifications M–115 titled Steel, Carbon, Boiler and Firebox for Locomotives, or ASTM Standard Specifications A–201 titled Carbon-Silicon Steel Plates of Intermediate Tensile Ranges for Fusion Welded Boilers and Other Pressure Vessels, Grade A, or ASTM Standard Specifications A–212 titled High Tensile Strength Carbon-Silicon Steel Plates for Boilers and Other Pressure Vessels, Grades A and B, or ASTM Standard Specifications A–285 titled Low and Intermediate Tensile Strength Carbon Steel Plates of Flange and Firebox Qualities, Grade C, with the carbon content of the plates used not to exceed 0.31 percent. These plates may also be clad with other metals, such as nickel, etc.

* * * * *

2. Amend § 78.282 paragraph ICC–3 (a) (15 F. R. 8510, Dec. 2, 1950) (49 CFR 78.282, 1950 Rev.) to read as follows:

§ 78.282 *Specification for tank cars having rubber-lined fusion-welded steel tanks, class ICC–103B–W* * * *

ICC–3. *Material.* (a) All plates for tank and expansion dome must be made of open hearth boiler-plate steel of flange quality, the carbon content of which shall not exceed 0.31 percent. The lining must be acid-resisting rubber, vulcanized or bonded directly or otherwise attached to the metal tank, to provide a non-porous laminated lining. No rubber shall be under tension when applied except that due to conformation over rivet heads. Interior of tank must be free from scale, oxidation, and all foreign matter during the lining operation.

* * * * *

3. Amend § 78.283 paragraph AAR–3 (a) and introductory text of paragraph AAR–6 (p) (15 F. R. 8512, Dec. 2, 1950) (49 CFR 78.283, 1950 Rev.) to read as follows:

§ 78.283 *Specification for tank cars having fusion-welded alloy steel tanks Class ICC–103C–W* * * *

AAR–3. (a) All plates, forging, tubes, castings and rivets coming in contact with the lading must be in accordance with ASTM specifications for materials meeting requirements of paragraph ICC–3 (a).

* * * * *

AAR–6. *Heat treatment.* (p) Each tank must be heat treated after all welding is completed to remove stresses and at the proper temperature to obtain the corrosion resistance specified in paragraph ICC–3 (a) and meet the physical properties required in material specification. Welded attachments must be welded in place before tank is heat treated. Fusion-welded anchors, if applied, must be welded in place before tank is heat treated. Test plates must be heat treated with and at the same time as the tank. Severe hot and cold forming operations, such as pressing or spinning of tank heads, dome heads, or saddles, must be followed by the required heat treatment. Heat treatment shall be as follows:

* * * * *

4. Amend § 78.291 paragraph AAR–2 (a) and paragraph AAR–6 (f–3) (16 F R. 5330, 5331, June 6, 1951) (49 CFR 1950 Rev., 1952 Supp., 78.291) to read as follows:

§ 78.291 *Specification for tank cars having fusion-welded aluminum tanks Class ICC–103–AL–W* * * *

AAR–2. *Thickness of plates.* (a) The wall thickness in the cylindrical portion of the tank must be calculated by the following formula but in no case shall the wall thickness be less than that specified in paragraph ICC–4.

$$t=\frac{Pd}{2SE}$$

where

t= thickness in inches of thinnest plate.
P= specified minimum bursting pressure pounds per square inch.
d= inside diameter in inches.
S= minimum ultimate tensile strength in pounds per square inch in zone adjacent to welds as given below.
E= efficiency of longitudinal welded joint=90 percent.

Alloy 996A = 9,500 p. s. i.
Alloy 990A =11,000 p. s. i.
Alloy M1A =14,000 p. s. i.
Alloy GR20A =25,000 p. s. i.
Alloy GS11A =24,000 p. s. i.

* * * * *

AAR–6. (f–3) The tension-test specimen of the weld metal shall be taken entirely from the deposited weld metal and shall meet the following requirements:

Tensile strength=at least that of the minimum ultimate tensile strength in zone adjacent to welds. (See par. AAR–2 (a).)

Elongation, minimum in 2 inches, or 4*D* (*D*=diameter) for each aluminum alloy must be as follows:

	Percent
Alloy 996A	25
Alloy 990A	28
Alloy M1A	23
Alloy GR20A	18
Alloy GS11A	5

For plate thicknesses less than ⅝ inch, the all-weld-metal tension test may be omitted.

* * * * *

SUBPART J—SPECIFICATIONS FOR CONTAINERS FOR MOTOR VEHICLE TRANSPORTATION

1. Amend heading of § 78.323 and amend § 78.323–11 paragraph (a) (15 F. R. 8549, 8550, Dec. 2, 1950) (49 CFR 78.323, § 78.323–11, 1950 Rev.) to read as follows:

§ 78.323 *Specification MC 302; cargo tanks constructed of welded aluminum alloy (Grade 52S or an alloy meeting Military Specification A–17357)* To be mounted on and to form part of tank motor vehicles for transportation of flammable liquids, and poisonous liquids, Class B.

* * * * *

§ 78.323–11 *Material.* (a) All sheets for such cargo tanks shall be of aluminum alloy, known as 52S or an alloy meeting Military Specification A–17357 and have the following minimum requirements:

Yield strength..... 26,000 lb. per sq. in.
Ultimate strength... 34,000 lb. per sq. in.
Elongation, 2-inch sample. 12 percent.

NOTE: Yield strength is the stress which produces a permanent set of 0.2 percent of the initial gauge length (ASTM E8–36).

2. Cancel entire § 78.330 (15 F R. 8554, 8555, 8556, Dec. 2, 1950) (49 CFR 78.330, 1950 Rev.)

3. Add § 78.331 (15 F R. 8556, Dec. 2, 1950) (49 CFR 78.331, 1950 Rev.) to read as follows:

§ 78.331 *Specification MC 311, cargo tanks.* To be mounted on or to form part of tank motor vehicles for the transportation of corrosive liquids.

§ 78.331–1 *Scope.* (a) This specification is primarily designed to apply to cargo tanks of tank motor vehicles to be used for the transportation of corrosive liquids.

§ 78.331–2 *Existing tank motor vehicles continuing in service—*(a) *Specification tank motor vehicles.* Tank motor vehicles used for the transportation of corrosive liquids which shall have been in service prior to June 15, 1940, may be continued in service provided they have been designed and constructed in accordance with the requirements set forth in paragraphs T–117 (a), T–118 (a) and (b) T–120, T–121, T–122, T–123, and T–124, of Regulations for the Transportation of Explosives and Other Dangerous Articles on Public Highways by Motor Truck or Motor Vehicle, approved, adopted, and prescribed by order of this Commission dated November 6, 1934, and vacated on June 15, 1940.

(1) Tank motor vehicles used for the transportation of corrosive liquids which shall have been in service prior to the effective date of this specification, may be continued in service provided they have been designed and constructed in accordance with the requirements of specification MC 310 of the Regulations for the Transportation of Explosives and Other Dangerous Articles.

(b) *Existing nonspecification tank motor vehicles.* Tank motor vehicles used for the transportation of corrosive liquids not meeting the requirements set forth in paragraph (a) of this section, which shall have been in service prior to June 15, 1940, may be continued in service provided they fulfill the requirements set forth under § 78.331–6 and are and can be maintained in safe operating condition, but in any event they shall be equipped with at least the accessories as specified in §§ 78.330–15, 78.330–16, 78.330–17, 78.330–18 (b), and 78.330–19 of specification MC 310 or §§ 78.331–11 (d) and (e) 78.331–16 and 78.331–18 of this specification.

§ 78.331–3 *New tank motor vehicles.* (a) Except as provided in § 78.331–4 every new tank motor vehicle acquired by a motor carrier on or after the effective date of this specification, for the transportation of any corrosive liquid shall comply with the requirements of specification MC 311. A certificate from the manufacturer of the cargo tank, or from a competent testing agency, certifying that each such tank is designed and constructed in accordance with the requirements of this specification, shall be procured, and such certificate shall be retained in the files of the carrier during the time that such tank is employed in the transportation of corrosive liquids by him. The certificate shall indicate

that the cargo tank has successfully passed the test requirements of § 78.331–7.

§ 78.331–4 *Novel tank motor vehicles, special authorization.* (a) The Commission may, upon written request for such authorization by a motor carrier, authorize the use of limited numbers, and for limited times, of new tanks which fail to meet the requirements of this specification. In the event of such request for authorization, the carrier shall furnish those details concerning the design and construction of the tank as seem necessary for the determination of its ability safely to transport corrosive liquids.

§ 78.331–5 *Marking of cargo tanks*—(a) *Metal identification plate.* On the right side, near the front, and in a place readily accessible for inspection, there shall be on every cargo tank a metal plate. This plate shall be permanently affixed by means of soldering, brazing, welding, or other suitable means; and upon it shall be marked by stamping, embossing, or other means of forming letters into or on the metal of the plate itself in the manner illustrated below, at least the information indicated below. The plate shall not be so painted as to obscure the markings thereon.

Carrier's Serial Number.[1]
Manufacturer's Name.[2]
Date of Manufacture.[2]
ICC MC * * *[3]
Maximum Working Pressure.[4]
Material.[4]
Lining.[4]
Nominal Capacity.[4]
Density of Cargo, Maximum____ Lb/Gallon.[4]
Nominal Tank Cap'y_____ U. S. Gallons.

(b) *Test date markings.* The date of the last test or retest required by these regulations shall be painted on the tank in letters not less than 1¼ inches high, in legible colors, immediately below the metal identification plates specified in paragraph (a) of this section.

(c) *Certification by markings.* The markings specified in paragraphs (a) and (b) of this section shall serve to certify that the information thereby set forth is correct.

§ 78.331–6 *Times of retesting of cargo tanks.* Every cargo tank used for the transportation of any corrosive liquid shall be tested or retested as follows:

(a) *Tanks out of service one year or more.* Every cargo tank which has been out of transportation service for a period of one year or more shall not be returned again to or placed in such service until it shall have successfully fulfilled the requirements set forth under § 78.331–7.

(b) *Nonspecification tanks.* Every cargo tank not complying with the requirements set forth in §§ 78.331–2 (a) or 78.331–3 shall be tested at least once in every calendar year and shall successfully fulfill the requirements set forth under § 78.331–7. No two such required tests shall be closer together than 6 months.

(c) *Specification tanks.* Every cargo tank complying with the requirements set forth in §§ 78.331–2 (a) or 78.331–3 shall be tested at least once in every 5-year period. If tested no oftener than once every 5 years, at least one such test shall be made in the last year of any such 5-year period. The time of reckoning of such testing of such cargo tanks shall be from the time of the last test made in accordance with the requirements set forth under § 78.331–7.

(d) *Novel cargo tanks.* Every cargo tank which shall have been authorized by this Commission to transport corrosive liquids under the provisions of § 78.331–4 shall be tested under requirements specifically set forth in the terms of such authorization.

(e) *Testing following accidents.* Every cargo tank capable of suitable repair following any accident in which a tank motor vehicle may have been involved shall be retested in accordance with the requirements set forth under § 78.331–7 if the cargo tank has itself been damaged in a manner likely to affect the safety of operation of the motor vehicle, or if the damage to the tank motor vehicle is such as to make the safety of the cargo tank uncertain.

(f) *Special testing required by the Commission.* Upon the showing of probable cause of the necessity for retest, the Commission may, in its discretion, cause any cargo tank to be retested in accordance with the requirements of § 78.331–7 at any time.

§ 78.331–7 *Method of testing*—(a) *Test for leaks; cargo tanks.* Every cargo tank shall be tested by completely filling the tank and dome with water or other liquid having a similar viscosity, or with a corrosive liquid permitted to be transported in the cargo tank, the temperature of which shall not exceed 100° F. during the test, and applying a pressure of 1½ times the design working pressure but not less than 3 pounds per square inch gauge. The pressure shall be gauged at the top of tank. The tank must hold the prescribed pressure for at least 10 minutes without failure, undue distortion, leakage or evidence of impending failure. All closures shall be in place while test is made.

(b) *Test for distortion or failure.* Every cargo tank shall be tested by the pressures prescribed in § 78.331–7 (a), and shall withstand such pressures without undue distortion or other indication of impending failure. If there is undue distortion, or if failure impends or occurs, the cargo tank shall not be returned to service unless a suitable repair is made. The suitability of the repair shall be determined by the same method of test.

(c) *Test of heating system.* After any interior heating system is installed, and before the tanks to which they are fitted are placed in service, the heating system shall be tested. Systems employing media such as steam or hot water under pressure for heating the contents of cargo tanks shall be tested with hydrostatic pressure and proved to be tight at 200 pounds per square inch gauge. Systems employing flues for the heating of the contents of cargo tanks shall be suitably tested to insure against the leakage of the contents of the tanks either into the flues or into the atmosphere.

§ 78.331–8 *Design requirements*—(a) *A. S. M. E. Code construction.* Cargo tanks built of ferrous materials under this specification that are unloaded by pressure must be built of welded construction in accordance with the A. S. M. E. Code for Unfired Pressure Vessels, 1949, 1950, 1951, or 1952 editions—no revisions, but shall not have head, bulkhead, baffle or shell thicknesses less than that specified in §§ 78.331–8 (c) and 78.331–8 (d).

(b) *When divided into compartments.* When the interior of the tank is divided into compartments, each compartment shall be designed, constructed, tested, and retested as a separate tank.

(c) *Head, bulkhead and baffle thicknesses.* Tanks built under this specification, that are not constructed in accordance with § 78.331–8 (a) shall have head thicknesses conforming with those in the following tables:

TABLE I—MINIMUM THICKNESS OF HEADS, BULKHEADS, AND BAFFLES (DISHED, CORRUGATED, REINFORCED OR ROLLED), FOR MILD, HIGH TENSILE AND STAINLESS STEELS

Weight of product at 60° F. in pounds per gallon	Volume capacity of tank in gallons per inch of length			
	10 or less	Over 10 to 14	Over 14 to 18	Over 18
Less than: 10	12 gauge	10 gauge	9 gauge	8 gauge.
10 to 13	10 gauge	8 gauge	5/16 inch	¼ inch.
Over 13 to 16	8 gauge	5/16 inch	¼ inch	¼ inch.

(d) *Shell thickness.* Tanks built under this specification, that are not constructed in accordance with § 78.331–8 (a), shall have shell thicknesses conforming with those in the following tables, except that where § 78.331–15 permits one compartment tanks up to 90 inches without baffles, the shell thickness for such cargo tanks shall correspond with the shell thickness required for 54-inch to 60-inch spacings:

[1] Carriers are not required to number their tanks serially; any designation regularly used by the carrier to identify the tanks may be put in this space.

[2] In the event the identity of the tank manufacturer or the date of manufacture is not known and cannot be ascertained, the spaces indicated shall be marked "MAKE UNKNOWN" and/or "DATE OF MANUFACTURE UNKNOWN"

[3] Substitute "ICC SPEC–T–118" or "ICC 7.5–S–1" or "MC 310" or "NO SPECIFICATION" as appropriate. For MC 311 cargo tanks insert MC 311–IIS for steel tanks designed in accordance with Table II or § 78.331–8 (d); MC 311–IIIS for steel tanks designed in accordance with Table III of § 78.331–8 (d) and MC 311–IVS for steel tanks designed in accordance with Table IV of § 78.331–8 (d). For aluminum tanks substitute AL for S.

[4] This data required for MC 311 cargo tanks only.

TABLE II—FOR LIQUIDS LESS THAN 10 POUNDS PER GALLON

[Minimum shell thickness in U S Standard gauge and inches—For mild high tensile and stainless steel]

Distance between attachments of bulkheads baffles or other shell stiffeners	Volume capacity of tank in gallons per inch of length			
	10 or less	Over 10 to 14	Over 14 to 18	Over 18
	Maximum shell radius of less than 70 inches			
36 inches or less	12 gauge	12 gauge	12 gauge	10 gauge
Over 36 inches to 54 inches	12 gauge	12 gauge	10 gauge	9 gauge
Over 54 inches to 60 inches	12 gauge	10 gauge	9 gauge	8 gauge
	Maximum shell radius 70 inches or more but less than 90 inches			
36 inches or less	12 gauge	12 gauge	10 gauge	9 gauge
Over 36 inches to 54 inches	12 gauge	10 gauge	9 gauge	8 gauge.
Over 54 inches to 60 inches	10 gauge	9 gauge	8 gauge	3/16 inch
	Maximum shell radius 90 inches or more but less than 125 inches			
36 inches or less	12 gauge	10 gauge	9 gauge	8 gauge.
Over 36 inches to 54 inches	10 gauge	9 gauge	8 gauge.	3/16 inch
Over 54 inches to 60 inches	9 gauge	8 gauge	3/16 inch	3/16 inch
	Maximum shell radius 125 inches or more			
36 inches or less	10 gauge	9 gauge	8 gauge.	3/16 inch
Over 36 inches to 54 inches	9 gauge	8 gauge.	3/16 inch	3/16 inch
Over 54 inches to 60 inches	8 gauge	3/16 inch	3/16 inch	1/4 inch

TABLE III—FOR LIQUIDS OVER 10 TO 13 POUNDS PER GALLON

[Minimum shell thickness in U S Standard gauge and inches—For mild high tensile and stainless steel]

Distance between attachments of bulkheads baffles or other shell stiffeners	Volume capacity of tank in gallons per inch of length			
	10 or less	Over 10 to 14	Over 14 to 18	Over 18
	Maximum shell radius of less than 70 inches			
36 inches or less	10 guage	10 guage	10 guage	8 guage.
Over 36 inches to 54 inches	10 guage	10 guage	8 guage.	3/16 inch
Over 54 inches to 60 inches	10 guage	8 guage	3/16 inch	1/4 inch
	Maximum shell radius 70 inches or more but less than 90 inches			
36 inches or less	10 guage	10 guage	8 guage.	3/16 inch.
Over 36 inches to 54 inches	10 guage	8 guage.	3/16 inch	1/4 inch.
Over 54 inches to 60 inches	8 guage	3/16 inch	1/4 inch	1/4 inch.
	Maximum shell radius 90 inches or more but less than 125 inches			
36 inches or less	10 guage	8 guage	3/16 inch.	1/4 inch.
Over 36 inches to 54 inches	8 guage	3/16 inch	1/4 inch	1/4 inch.
Over 54 inches to 60 inches	3/16 inch	1/4 inch	1/4 inch	1/4 inch.
	Maximum shell radius 125 inches or more			
36 inches or less	8 guage	3/16 inch	1/4 inch	1/4 inch.
Over 36 inches to 54 inches	3/16 inch	1/4 inch	1/4 inch	1/4 inch.
Over 54 inches to 60 inches	1/4 inch	1/4 inch	1/4 inch	3/16 inch.

TABLE IV—FOR LIQUIDS OVER 13 TO 16 POUNDS PER GALLON

[Minimum shell thickness in U S Standard gauge or inches—For mild high tensile and stainless steel]

Distance between attachments of bulkheads baffles or other shell stiffeners	Volume capacity of tank in gallons per inch of length			
	10 or less	Over 10 to 14	Over 14 to 18	Over 18
	Maximum shell radius of less than 70 inches			
36 inches or less	8 gauge	8 gauge	8 gauge.	3/16 inch
Over 36 inches to 54 inches	8 gauge	8 gauge.	3/16 inch	1/4 inch.
Over 54 inches to 60 inches	8 gauge	3/16 inch	1/4 inch	1/4 inch
	Maximum shell radius 70 inches or more but less than 90 inches			
36 inches or less	8 gauge	8 gauge.	3/16 inch	1/4 inch
Over 36 inches to 54 inches	8 gauge.	3/16 inch	1/4 inch	1/4 inch.
Over 54 inches to 60 inches	3/16 inch	1/4 inch	1/4 inch	5/16 inch
	Maximum shell radius 90 inches or more but less than 125 inches			
36 inches or less	8 gauge.	3/16 inch	1/4 inch	1/4 inch.
Over 36 inches to 54 inches	3/16 inch	1/4 inch	1/4 inch.	5/16 inch
Over 54 inches to 60 inches	1/4 inch	1/4 inch	5/16 inch	5/16 inch
	Maximum shell radius 125 inches or more			
36 inches or less	3/16 inch	1/4 inch	1/4 inch.	5/16 inch
Over 36 inches to 54 inches	1/4 inch	1/4 inch.	5/16 inch	5/16 inch
Over 54 inches to 60 inches	1/4 inch	5/16 inch	5/16 inch	3/8 inch

(e) *Cargo tanks built of non-ferrous metals* Cargo tanks constructed of materials other than mild high tensile or stainless steel shall have shell and head thicknesses designed in accordance with the following formula:

$$\text{Thickness for materials other than steel} = \text{Steel thickness from tables} \times \sqrt[3]{\frac{3\times10^7}{\text{Modulus of elasticity of material to be used}}}$$

§ 78.331–9 *Materials* Methods of design, fabrication, and construction for such materials shall be such as to result in a cargo tank having properties at least equal to those of a ferrous cargo tank

(a) *A S M E Code materials.* Cargo tanks required to comply with the A. S M E. Code for Unfired Pressure Vessels must be manufactured of materials authorized by the Code.

(b) *Ferrous metal properties* Materials used in cargo tanks built to conform with the tables in § 78.331–8 (d) or (e) must have the following minimum physical properties:

Yield point 25 000 lb per sq in.
Ultimate strength 45 000 lb per sq in.
Minimum elongation, 20 percent
2-inch sample

(c) *Aluminum properties* Aluminum materials must have the following minimum physical properties:

Yield point 12 000 lb per sq in
Ultimate strength 17 000 lb. per sq in
Minimum elongation 6 percent
2-inch sample

(d) *Lining* Except as provided in paragraph (e) of this section, cargo tanks must be lined and the material used for lining each cargo tank subject to this specification shall be homogeneous nonporous, imperforate when applied not less elastic than the metal of the tank proper and substantially immune to attack by the commodities to be transported therein It shall be of substantially uniform thickness not less than 3/16 inch thick if of rubber or rubber-like material and not less than 1/32 inch thick if of other material. It shall be directly bonded or attached by other equally satisfactory means Joints and seams in the lining shall be made by fusing the material together or by other equally satisfactory means The interior of the tank shall be free from scale oxidation moisture and all foreign matter during the lining operation.

(e) *Conditions under which tanks need not be lined.* Tanks need not be lined as provided in § 78.331–9 (d) if:

(1) The material of the tank is substantially immune to attack by the materials to be transported therein.

(2) The material of the tank is thick enough to withstand 10 years' normal service without being reduced at any point to less thickness than that specified in § 78.331–8 corresponding to its type, or

(3) The chemical reaction between the material of the tank and the commodity to be transported therein is such as to allow the tank to be properly passified or neutralized as set forth elsewhere in this specification; or

(4) For the transportation of hydrofluoric acid of sixty percent (60%) or higher concentration, they be passified in the following or an equally effective method: By filling the tank to not less than ninety percent (90%) of its capacity with hydrofluoric acid of fifty-eight percent (58%) strength and allowing it to stand at least forty-eight (48) hours at a temperature of eighty degrees Fahrenheit (80° F.) then seven (7) hours at one hundred forty degrees Fahrenheit (140° F.) the internal pressure being maintained at atmospheric pressure the meanwhile.

§ 78.331–10 *Joints.* (a) All joints and seams formed in the manufacture of any cargo tank shall be made tight by welding, riveting, riveting and welding, brazing, or riveting and brazing, at the option of the motor carrier, subject to the limitation that any of the aforesaid methods are permissible only when any one of them or combination as used in the tank is not subject to adverse action by the nature of the corrosive liquid which is to be transported in such tank.

§ 78.331–11 *Tank outlets*—(a) *No bottom outlets.* Except as provided hereinafter, no cargo tanks, except those used for the shipments of sludge acid or alkaline corrosive liquids, shall have bottom discharge outlets; outlets leaving the cargo tank at or near the top but having the end of the outlet below the top liquid level shall not be considered as bottom outlets but such outlets must be equipped with a shut-off valve at the point of outlet from the cargo tank and a shut-off valve at the discharge end of the outlet and must not be moved with any of the contents in the outlet beyond the point where it leaves the cargo tank. The valve at the tank shall be protected against damage in the event of overturn. Cargo tanks used for the transportation of sludge acid and/or alkaline corrosive liquid may be equipped with bottom outlets when the products to be transported are too viscous to be unloaded through a dome connection or top outlet provided such bottom outlets are equipped with an effective and reliable shut-off valve located inside the shell of the tank, tank compartment outlet, or sump if the sump is integral with the tank.

(b) *Bottom wash-out chambers.* Tanks may be equipped with bottom wash-out chambers.

(c) *Bottom outlets and wash-out chambers.* Bottom outlets or bottom wash-out chambers shall be of metal not subject to rapid deterioration by the lading, and each shall be provided with a valve or plug at its upper end and a liquid-tight closure at its lower end. Every such valve or plug shall be such as to insure against unseating due to stresses or shocks incident to transportation.

(d) *Shear section.* Any outlet shall be provided with a shear section between each shut-off valve seat and draw-off valve which section will break under strain, unless the discharge piping is so arranged as to afford equivalent protection, and leave the shut-off valve seat intact in case of accident to the draw-off valve or piping. Heater coils, when installed, shall be so constructed that the breaking off of their external connections will not cause leakage of contents of tanks.

(e) *Protection of valves.* Draw-off valves and fittings of cargo tanks projecting beyond the frame, or if the vehicle be frameless, beyond the shell, shall be adequately protected in the event of a collision by steel bumpers or other equally effective devices.

§ 78.331–12 *Venting, gauging, loading, and air inlet devices.*—(a) *Safety vent.* Each tank or compartment thereof must be equipped with suitable pressure relief devices as required by the Code, or shall be fitted with suitable rupture discs in the dome or manhole assemblies in lieu of mechanical pressure-relief valves. Such discs shall be designed to rupture at not to exceed 1½ times the design working pressure.

(b) *Gauging, loading and air inlet devices.* Gauging, loading, and air-inlet devices, including their valves, shall be provided with adequate means for their secure closure, and means shall also be provided for the closing of pipe connections or valves.

§ 78.331–13 *Compartmentization.* (a) When the interior of the tank is divided into compartments, each compartment shall be designed, constructed, tested, and retested as a separate tank. Flat heads or bulkheads without reinforcement are not permitted.

§ 78.331–14 *Expansion dome.* (a) Every cargo tank, and every compartment of cargo tank, designed for shell-full loading must be equipped with an expansion dome. Domes must have a minimum capacity of one percent (1%) of the combined capacity of tank or compartment and dome.

§ 78.331–15 *Baffles, bulkheads and shell stiffeners.* (a) Every cargo tank, and every compartment of a cargo tank over ninety inches (90 in.) in length, unless equipped with domes and loaded at least 90 percent shell-full shall be provided with baffles which baffles shall be dished, corrugated, reinforced, or rolled. The number of such baffles shall be such that the linear distance between any two adjacent baffles, or between any tank head or bulkhead and the nearest baffle shall not exceed sixty inches. The cross sectional area of each baffle shall not be less than eighty percent (80%) of the cross-sectional area of the tank.

(1) Cargo tanks not required to be equipped with baffles shall be equipped with external shell stiffeners spaced in accordance with the requirements for baffles. Such baffles and stiffeners shall be of such characteristics, be so located, and shall be so fastened to the shell as to avoid distortion of the tank during operation such as would be likely to result in failure.

§ 78.331–16 *Closures for manholes.* (a) The manhole cover shall be designed to provide a secure closure of the manhole. All covers, not hinged to the tanks, shall be attached to the outside of the dome by at least ⅛ inch chain or its equivalent. All joints between manhole covers and their seats shall be made tight against leakage of vapor and liquid by use of gaskets of suitable material not subject to attack by the corrosive liquid to be transported in the tank.

§ 78.331–17 *Overturn protection.* (a) All closures for filling openings and outlets shall be protected from damage in the event of overturn of the motor vehicle by being enclosed within the body of the tank or dome attached thereto or the use of substantial metal guards securely attached to the cargo tank or frame of the motor vehicle.

§ 78.331–18 *Heater coils.* (a) Heater coils, when installed, shall be so constructed that the breaking off of their external connections will not cause leakage of contents of tanks.

PART 197—TRANSPORTATION OF EXPLOSIVES AND OTHER DANGEROUS ARTICLES BY MOTOR VEHICLE

Cancel entire § 197.2 (9 F. R. 541, Jan. 13, 1944) (8 F. R. 6482, 6483, May 18, 1943) (49 CFR 197.2)

[F. R. Doc. 53-6447; Filed, July 22, 1953; 8:45 a. m.]

NOTICES

DEPARTMENT OF THE TREASURY

Bureau of Customs

[T. D. 53296]

JOSHUA HENDY CORP.

REGISTRATION OF FUNNEL MARK

JULY 17, 1953.

Funnel mark of Joshua Hendy Corporation registered in accordance with § 3.81 (a), Customs Regulations of 1943.

The Commissioner of Customs by virtue of the authority vested in him by law and in accordance with § 3.81 (a) Customs Regulations of 1943 (19 CFR 3.81 (a)) has registered the funnel mark of the Joshua Hendy Corporation described below, the dimensions of which are stated as they would appear when projected onto a vertical plane parallel to the longitudinal axis of the vessel:

The funnel mark is to appear, centered in a fore-and-aft direction, on either

side of a light blue, circular funnel 25 feet 6 inches in height and 16 feet 8 inches in diameter. The mark is a design comprised of white lines of 1 foot in width. The design consists of a square, the sides of which are 10 feet 9 inches along the outer edge and the upper edge of which is located 3 feet 2 inches below the top of the stack; on the vertical center line of the square there is a circle with an outside diameter of 5 feet 3 inches tangent to the inner edge of the lower side of the square; the circle forms the tail of a vertical arrow, the whole in form similar to the ancient symbol used to represent the planet Mars or the element iron; the shaft of the arrow extends upward from the upper edge of the circle and joins an arrowhead formed by two lines intersecting at about a 90-degree angle at the mid-point of the inner edge of the upper side of the square and extending downward and outward, attaining a breadth approximating that of the tail.

A colored drawing of the funnel mark described above is on file with the Federal Register Division.

[SEAL] D. B. STRUBINGER,
Acting Commissioner of Customs.

[F. R. Doc. 53-6488; Filed, July 22, 1953; 8:49 a. m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

ALASKA

GIRDWOOD TOWNSITE; NOTICE OF SALE

JULY 16, 1953.

Notice is hereby given that there will be offered at public sale to the highest bidder at 3:00 p. m. on August 14, 1953, in the Little Dipper Inn, Girdwood, Alaska, the lots listed at the end of this notice.

These lots will not be sold for less than the appraised price. No bid exceeding that amount will be accepted unless made in multiples of $5.00. Bids may be offered by all who may care to do so, and when there will be no further offers, the lots will be declared sold to the last and highest bidder.

Full payment may be made in cash, postal money order, or bank draft at the date of sale. On bids in excess of $100, a minimum of $100 will be required at time of sale. The balance must be paid to the Manager, Anchorage Land Office, within one year from date of sale. A charge of four per cent will be made on the deferred balance. If any person who has made partial payment for a lot fails to make the succeeding payment, the money theretofore paid and his rights to the lot will be forfeited.

The officer conducting the sale is authorized to reject any and all bids, to suspend, adjourn or postpone the sale of the lots, and to reappraise the lots at the time of sale or after the sale has been adjourned or closed. If the lots remain unsold, they may, at the discretion of the Superintendent of Sales, be sold at private entry for the appraised price. Lots, the rights to which have been declared forfeited for non-payment of the succeeding installment, or for any other reason, shall be subject to private entry upon reappraisement at the sale price. Patents for these lots, when issued, will contain a reservation of fissionable materials. All persons are warned against violation of the provisions of U. S. C. 1860, prohibiting unlawful combinations or intimidation of bidders.

Prospective purchasers are advised to inspect the lots before time of sale. Caution is advised as all of the lots are low and those in Blocks 7, 8, and 9 are subject to inundation during extreme high tides from Turnagain Arm. Lot 4 in Block 7 and Lots 7 and 9 in Block 8 appear to have been heavily eroded.

Following are the lots being offered for sale, the area embraced by each and the minimum acceptable bids for these lots:

Block 1:
- Lot 4—6,000 square feet—$20.00
- Lot 5—6,000 square feet—20.00
- Lot 6—6,000 square feet—20.00
- Lot 7—6,000 square feet—20.00
- Lot 8—6,000 square feet—20.00
- Lot 9—6,000 square feet—20.00
- Lot 10—6,000 square feet—20.00
- Lot 11—6,000 square feet—20.00
- Lot 12—6,000 square feet—20.00
- Lot 13—6,000 square feet—20.00
- Lot 14—6,000 square feet—20.00
- Lot 15—6,000 square feet—20.00
- Lot 16—6,000 square feet—20.00

Block 2:
- Lot 4—6,000 square feet—20.00
- Lot 5—6,000 square feet—20.00
- Lot 6—6,000 square feet—20.00

Block 3:
- Lot 19—6,000 square feet—$20.00
- Lot 20—6,000 square feet—20.00
- Lot 23—6,000 square feet—20.00
- Lot 24—6,000 square feet—20.00

Block 4:
- Lot 17—6,000 square feet—20.00
- Lot 18—6,000 square feet—20.00
- Lot 19—6,000 square feet—20.00
- Lot 21—6,000 square feet—20.00
- Lot 22—6,000 square feet—20.00

Block 5:
- Lot 2—6,000 square feet—20.00
- Lot 3—6,000 square feet—20.00
- Lot 4—6,000 square feet—20.00
- Lot 5—6,000 square feet—20.00
- Lot 6—6,000 square feet—20.00
- Lot 7—6,000 square feet—20.00
- Lot 8—6,000 square feet—20.00

Block 6:
- Lot 1—6,000 square feet—20.00
- Lot 2—7,839 square feet—20.00
- Lot 3—7,350 square feet—20.00
- Lot 4—6,000 square feet—20.00
- Lot 5—6,000 square feet—20.00

Block 7:
- Lot 1—15,550 square feet—20.00
- Lot 4—15,898 square feet—20.00

Block 8:
- Lot 3—6,000 square feet—20.00
- Lot 4—6,000 square feet—20.00
- Lot 7—9,536.4 square feet—20.00
- Lot 9—6,000 square feet—20.00

Block 9:
- Lot 7—6,000 square feet—20.00
- Lot 17—6,000 square feet—20.00
- Lot 18—6,000 square feet—20.00
- Lot 19—6,000 square feet—20.00
- Lot 20—6,000 square feet—20.00
- Lot 23—6,000 square feet—20.00
- Lot 24—6,000 square feet—20.00

LOWELL M. PUCKETT,
Regional Administrator

[F. R. Doc. 53-6474; Filed, July 22, 1953; 8:46 a. m.]

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

SUPPLEMENTAL JULY 1953 EXPORT PRICE LIST

SALES OF CERTAIN COMMODITIES AT FIXED PRICES

Pursuant to the Pricing Policy of Commodity Credit Corporation issued March 22, 1950, as amended January 9, 1953 (15 F R. 1533, 18 F R. 176) and subject to the conditions stated therein, the following commodities are available for sale in the quantities and at the prices stated:

SUPPLEMENTAL JULY 1953 EXPORT PRICE LIST

Commodity and approximate quantity available (subject to prior sale)	Export sales price
Light red kidney beans, bagged, (1952 crop), 49,682 hundredweight.	$9.25 per 100 pounds for U. S. No. 1 beans, basis f. a. s. New York. Available Chicago PMA Commodity office.

(Pub. Law 439, 81st Cong.)

Issued: July 17, 1953.

[SEAL] M. B. BRASWELL,
Acting Executive Vice President,
Commodity Credit Corporation.

[F. R. Doc. 53-6484; Filed, July 22, 1953; 8:48 a. m.]

EXPORT AND DOMESTIC PRICE LISTS FOR JULY 1953

SALES OF CERTAIN COMMODITIES AT FIXED PRICES

Pursuant to the Pricing Policy of Commodity Credit Corporation issued March 22, 1950, as amended January 9, 1953 (15 F. R. 1583, 18 F R. 176) and subject to the conditions stated therein, the following commodities are available for sale in the quantities and at the prices stated:

JULY 1953 EXPORT PRICE LIST

Commodity and approximate quantity available (subject to prior sale)	Export price list
Cottonseed oil refined, 643,000 000 pounds.[1]	Bid basis f o b tank cars or tankwagons at points of storage locations
Cottonseed oil, crude, 76 000 000 pounds [1]	Bid basis f o b tank cars or tankwagons at producer's mills
Linseed oil, raw, 180 000 000 pounds [1]	Bid basis f o b tank cars at points of storage locations
Peanuts, farmer's stock, bagged, Virginia type: 1951 crop, 43,000 tons; 1952 crop, 18,000 tons Spanish: 1952 crop 3,000 tons Runners: 1952 crop, 20 000 tons	Bid basis f o b, points of storage locations on a sound mature kernel basis, subject to a premium of $1.35 per ton for each full one percent extra large kernels in excess of 15 percent (Virginia type only), discounts for damage for each 1 percent damage in excess of 1 percent according to the 1952 schedule of discounts for damage (all types), except that the maximum discount for damage that will be allowed on 1951 crop Virginia-type peanuts shall not exceed the 1952 discount rate for peanuts containing 6 percent damage. Discounts for foreign material will be at the rate of $1 per ton for each 1 percent foreign material in excess of 4 percent and not over 10 percent and $2 per ton for each 1 percent in excess of 10 percent.
Dry edible beans	No. 1 Grade delivered on truck present locations, on basis costs and freight paid to f. a. s. vessel at location shown below Prices quoted below subject to discounts of 5 cents per hundredweight to purchasers of more than one carlot, 10 cents per hundredweight to purchasers of more than five carlots Beans purchased must be exported within 120 days of the date of purchase unless otherwise agreed upon by CCC.
Baby lima, bagged, 1950 crop 127,000 hundredweight [1]	No 1 Grade 1950 crop: $4 per 100 pounds, f. a. s San Francisco Bay, Calif Available Portland PMA Commodity office.
Small white, bagged, 8,178 hundredweight [1]	No. 1 Grade 1951 crop: Information covering quantities and locations can be secured at the Portland PMA Commodity office Offers are invited and will be considered on the basis of quantity as well as price
Light red kidney beans, bagged (1952 crop), 49 682 hundredweight.[1]	No. 1 Grade 1952 crop: $9 50 per 100 pounds basis f. a. s. New York. Available Chicago PMA Commodity office Discount for grades on all beans: No 2, 25 cents less than No. 1; No. 3, 50 cents less than No 1.
Blue Lupine seed, bagged not certified for purity or germination, 370 000 hundredweight [1]	Information covering quantities and locations can be secured from the New Orleans PMA Commodity office. Offers are invited and will be considered on the basis of quantity as well as price, and will not be accepted for less than the minimum carlot weight as prescribed by railroad carrier's regulation at point of storage.
Wheat, bulk, 25 000 000 bushels.	Market price on date of sale at point of delivery, provided delivery takes place within 15 days unless otherwise agreed upon. Available in Portland PMA Commodity office only and subject to withdrawal without notice.
Oats, bulk, 9,390 000 bushels [1] ...	Market price on date of sale at point of delivery, provided delivery takes place within 15 days unless otherwise agreed upon.
Barley, bulk, 999,000 bushels [1] ...	Do
Corn, bulk, 50 000,000 bushels [1] ...	Do.
Flaxseed, bulk, 3 667,000 bushels [1]	Market price on date of sale at place of delivery, provided delivery takes place within 15 days unless otherwise agreed upon, basis No. 1 Grade Available Chicago and Minneapolis PMA Commodity offices.
613,000 bushels [1] ...	$3.59 per bushel for No 1 Grade basis on truck, Galveston, Tex. For other grades, market differentials will apply
Soybeans, bulk, 1,000,000 bushels [1]	Market price on date of sale at place of delivery, provided delivery takes place within 15 days unless otherwise agreed upon, basis No. 1 Grade green or yellow soybeans. Market differentials will apply to other classes and grades. Available Minneapolis, Kansas City, and Chicago PMA Commodity offices
Cottonseed meal, cake and pellets (bagged): Meal, 440,000 short tons;[1] cake, 2,500 short tons;[1] pellets, 1 000 short tons [1]	Hydraulic and expeller process $32 per short ton basis, 41 percent protein cotton seed meal; $5 discount for 36 percent protein no guarantee on fat content; or, $52 per short ton basis 49 percent combination protein and fat cottonseed meal, discounts or premiums to apply for other combinations. Available f. a. s. South Atlantic, Gulf and West Coast ports. Information covering quantities and locations can be obtained from the New Orleans PMA Commodity office.

[1] These same lots also are available at domestic sales prices announced today.

JULY 1953 DOMESTIC PRICE LIST

Commodity and approximate quantity available (subject to prior sale)	Domestic sales price
Nonfat dry milk solids, in carload lots only, 260,000,000 pounds (spray); 40,000,000 pounds (roller)	Spray process, U. S. Extra Grade, 17 cents per pound; roller process, U. S. Extra Grade, 15 cents per pound. Prices apply "in store" at location of stocks in any State. ("In store" means at the processor's plant or in storage at warehouse, but with any prepaid storage and outhandling charges for the benefit of the buyer)

JULY 1953 DOMESTIC PRICE LIST—Continued

Commodity and approximate quantity available (subject to prior sale)	Domestic sales price
Salted creamery butter (in carload lots only) 225 000,000 pounds	U. S Grade A and higher: All States except those listed below, 68.75 cents per pound New York, New Jersey, Pennsylvania, New England and other States bordering the Atlantic Ocean and Gulf of Mexico, 69.50 cents per pound; California, Oregon, and Washington 69 75 cents per pound. U. S. Grade B, 2 cents per pound less than Grade A prices. Prices apply "in store" at location of stocks in those States where butter is stored. ("In store" means at the processor's plant or warehouse, but with any prepaid storage and out handling charges for the benefit of the buyer)
Cheddar cheese, cheddar and twin styles (standard moisture basis, in carload lots only) 155,000 000 pounds	U. S. Grade A and higher: All states except those listed below, 39 cents per pound; New York, New Jersey, Pennsylvania, New England, and other States bordering the Atlantic and Pacific Oceans and Gulf of Mexico 40 cents per pound U. S Grade B: 1 cent per pound less than Grade A prices Prices apply "in store" at location of stocks in those States where cheese is stored. All prices are subject to usual adjustment for moisture content. ("In store" means at the processor's plant or warehouse, but with any prepaid storage and outhandling charges for the benefit of the buyer)
Cottonseed oil, refined, 643 000 000 pounds [2]	Market price or 17¾ cents per pound b. p. s. y., f. o. b tankcars or tankwagons at points of storage locations, whichever is higher Above prices will not be reduced during period ending Aug. 31, 1953.
Cottonseed oil, crude, 76 000 000 pounds [2]	Market price or acquisition price for specified areas f. o. b. tankcars or tank wagons at producer's mills, whichever is higher Above prices will not be reduced during period ending Aug 31 1953
Linseed oil, raw, 189 000 000 pounds.[2]	Market price on date of sale
Olive oil edible 150 000 gallons	Market price or $2 63 per gallon in 55-gallon drums, whichever is higher, f. o b points of storage locations.
Dry edible beans	On all beans, for areas other than those shown below, adjust price upward or downward by an amount equal to the price support program differential between areas. Where no price support differential occurs, the price listed will apply. For other grades of all beans, adjust by market differentials. Prices listed below, on all beans, are at point of production. Amount of paid in freight to be added, as applicable.
Great Northern, bagged, 10 670 hundredweight	No. 1 Grade 1951 crop: $9.95 per 100 pounds basis f. o. b Morrill, Nebr., area, and $9.17 f o. b. Twin Falls, Idaho, area Available Portland and Kansas City PMA Commodity offices.
Baby Lima, bagged, 127 000 hundredweight.[2]	No. 1 Grade 1950 crop: $7.43 per 100 pounds, basis f. o b California area Available Portland PMA Commodity office.
Large Lima, bagged, 400 000 hundredweight.	No 1 Grade 1952 crop: $13 24 per 100 pounds, basis f o b California area. Available Portland PMA Commodity office.
Small White, bagged, 8 178 hundredweight.[2]	No. 1 Grade 1951 crop: $9.44 per 100 pounds basis f o b California area Available Portland PMA Commodity office.
Dry edible pea beans, bagged 177,633 hundredweight.	No. 1 Grade 1952 crop: $9.52 per 100 pounds basis f. o b Michigan area. Available Chicago PMA Commodity office.
Light red kidney, bagged, 49 682 hundredweight.	No. 1 Grade 1952 crop: $10.55 per 100 pounds basis f. o b New York shipping points. Available Chicago PMA Commodity office.
Seeds ----	On all seeds except lading: Offers will not be accepted for less than the minimum carlot weight as prescribed by railroad carrier's regulation at point of storage. However, if quantity available at any location is less than carlot, offers will be accepted for the entire lot.
Blue Lupine seed, bagged, 1952 crop, certified for purity and germination, 100 000 hundredweight.	$4.00 per 100 pounds, f. o b. point of production, plus any paid-in freight as applicable basis current freight rate at time of sale. Available New Orleans PMA Commodity office
Blue Lupine meal, bagged, 21,000 short tons.	$21 per short ton, f. o. b. cars at crushing plants in Georgia and South Carolina. Available in New Orleans PMA Commodity office.
Common and Willamette Vetch seed, bagged, 193 329 hundredweight.	$9 per 100 pounds, f. o. b. point of production, plus any paid in freight as applicable basis current freight rate at time of sale Available Dallas, Portland, and New Orleans PMA Commodity offices.
Red clover seed (uncertified), bagged, 112,140 hundredweight	$30.75 per 100 pounds, f. o. b. point of production, plus any paid in freight as applicable basis current freight rate at time of sale. Price will not be reduced during period ending Oct. 31, 1953. Available Portland, Chicago Kansas City, Minneapolis, and New Orleans PMA Commodity offices.
Red clover seed (certified), bagged, Cumberland, 771 hundredweight; Midland, 625 hundredweight.	$30.75 per 100 pounds, f. o. b. point of production, plus any paid in freight as applicable basis current freight rate at time of sale. Price will not be reduced during period ending Oct 31, 1953 Available Portland and Kansas City PMA Commodity offices.
Red clover seed (Kenland certified), bagged, 64 hundredweight.	$43 per 100 pounds, f. o. b. point of production, plus any paid-in freight as applicable basis current freight rate at time of sale Available Portland PMA Commodity office
Ladino clover seed (certified), bagged, 101,000 hundredweight.	$105 per 100 pounds, basis f o b. point of production, plus paid in freight, as applicable; $100 in lots of 60,000 pounds or more Above prices will not be reduced during period ending Oct. 31, 1953 Available Portland PMA Commodity office
Crimson clover seed bagged, 1,010 hundredweight	$18 per 100 pounds, f. o. b. point of production, plus any paid in freight as applicable basis current freight rate at time of sale. Available Portland PMA Commodity office

See footnotes at end of table

JULY 1953 DOMESTIC PRICE LIST—Continued

Commodity and approximate quantity available (subject to prior sale)	Domestic sales price
Biennial sweet clover seed, bagged, 23,240 hundredweight.	$9.45 per 100 pounds, f. o. b. point of production, plus any paid-in freight as applicable basis current freight rate at time of sale. Price will not be reduced during period ending Oct. 31, 1953. Available Kansas City, Minneapolis, Chicago and Portland PMA Commodity offices.
Hubam sweetclover seed, bagged, 50 hundredweight.	$10.50 per 100 pounds, f. o. b. point of production, plus any paid-in freight as applicable basis current freight rate at time of sale. Price will not be reduced during period ending Oct. 31, 1953. Available Dallas PMA Commodity office.
Alsike clover seed, bagged, 34,680 hundredweight.	$27 per 100 pounds, f. o. b. point of production, plus any paid-in freight as applicable basis current freight rate at time of sale. Available Portland and Chicago PMA Commodity offices.
Smooth bromegrass seed (uncertified), bagged, 56 hundredweight.	$15.75 per 100 pounds, f. o. b. point of production, plus any paid-in freight as applicable basis current freight rate at time of sale. Price will not be reduced during period ending Oct. 31, 1953. Available Portland and Chicago PMA Commodity offices.
Mountain bromegrass seed (Bromar certified), bagged, 530 hundredweight.	$21 per 100 pounds, f. o. b. point of production, plus any paid-in freight as applicable basis current freight rate at time of sale. Price will not be reduced during period ending Oct. 31, 1953. Available Portland PMA Commodity office.
Hairy vetch seed, bagged, 24,469 hundredweight.	$1 plus 1953 support price per 100 pounds, f. o. b. point of production, plus any paid-in freight as applicable basis current freight rate at time of sale. Available Portland, Dallas, and New Orleans PMA Commodity offices.
Birdsfoot trefoil seed, bagged, 1,150 hundredweight.	$78.75 per 100 pounds, f. o. b. point of production, plus any paid-in freight as applicable basis current freight rate at time of sale. Price will not be reduced during period ending Oct. 31, 1953. Available Portland PMA Commodity office.
Rough pea seed, bagged, 3,660 hundredweight.	$6.50 per 100 pounds, f. o. b. point of production, plus any paid-in freight as applicable basis current freight rate at time of sale. Available Portland and New Orleans PMA Commodity offices.
Primar slender wheat-grass seed (certified), bagged, 50 hundredweight.	$31.50 per 100 pounds, f. o. b. point of production, plus any paid-in freight as applicable basis current freight rate at time of sale. Price will not be reduced during period ending Oct. 31, 1953. Available Portland PMA Commodity office.
Ryegrass, common, bagged, 298 hundredweight.	$7.25 per 100 pounds, f. o. b. point of production, plus any paid-in freight as applicable current freight rate at time of sale. Available Portland PMA Commodity office.
Alfalfa seed, Northern, bagged, 164,506 hundredweight.	$37.50 per 100 pounds, f. o. b. area of production, plus any paid-in freight as applicable basis current freight rate at time of sale. Available Portland, Minneapolis, and Chicago PMA Commodity offices.
Alfalfa seed, Central, bagged, 9,692 hundredweight.	$30 per 100 pounds, f. o. b. area of production, plus any paid-in freight as applicable basis current freight rate at time of sale. Available Portland and Kansas City PMA Commodity offices.
Alfalfa seed, (certified) bagged, 13,785 hundredweight.	$43 per 100 pounds, f. o. b. area of production, plus any paid-in freight as applicable basis current freight rate at time of sale. Available Portland PMA Commodity office.
Tall Fescue seed (common), bagged, 84,680 hundredweight.	$21.50 per 100 pounds, f. o. b. area of production, plus any paid-in freight as applicable basis current freight rate at time of sale. Available Portland and Chicago PMA Commodity offices.
Tall Fescue seed (certified), bagged, 19,690 hundredweight.	$29 per 100 pounds, f. o. b. area of production, plus any paid-in freight as applicable basis current freight rate at time of sale. Available Portland PMA Commodity office.
Oats, bulk, 9,390,000 bushels [2]	At points of production, basis in store, the market price but not less than the applicable 1953 county loan rate, plus: (1) 8 cents per bushel if received by truck, or (2) 6 cents per bushel if received by rail or barge. At other points the foregoing plus average paid-in freight.
Barley, bulk, 300,000 bushels [2]	Examples of minimum prices per bushel: Chicago, No. 3 or better, ex rail or barge, $0.99; Minneapolis, No. 3 or better, ex rail or barge, $0.94. Basis in store, the market price but in no event less than the applicable 1953 loan rate for the class, grade, quality and location, plus: (1) 12 cents per bushel if received by truck, or (2) 8 cents per bushel if received by rail or barge.
Corn, bulk, 50,000,000 bushels [2]	Examples of minimum price per bushel: Minneapolis, No. 1 Barley, ex rail or barge, $1.52. At points of production, basis in store, the market price but not less than the applicable 1952 county loan rate for No. 3 yellow plus: (1) 32 cents per bushel if received by truck, or (2) 28 cents per bushel if received by rail or barge. At other locations, the foregoing plus average paid-in freight. Examples of minimum prices per bushel: Chicago, No. 3 yellow, $2.06; St. Louis, No. 3 yellow, $2.03; Minneapolis, No. 3 yellow, $1.97; Omaha, No. 3 yellow, $1.99; Kansas City, No. 3 yellow, $2.04. For other classes, grades and quality, market differentials will apply.
Soybeans, bulk (for crushing only), 1,900,000 bushels. [2]	Market price on date of sale at place of delivery, provided delivery takes place within 15 days unless otherwise agreed upon, basis No. 1 Grade green or yellow soybeans. Market differentials will apply to other classes and grades. This offer subject to withdrawal without notice. Available Minneapolis, Kansas City, and Chicago PMA Commodity offices.
Flaxseed, bulk (for crushing only), 3,607,000 bushels. [2]	Market price on date of sale at place of delivery, provided delivery takes place within 15 days unless otherwise agreed upon, basis No. 1 Grade. This offer subject to withdrawal without notice. Available Chicago and Minneapolis PMA Commodity offices.
613,000 bushels [2]	$3.20 per bushel for No. 1 Grade basis on track Galveston, Tex. For other grades, market differentials will apply.
Cottonseed, meal, cake and pellets (bulk); meal, 440,000 short tons:[2] cake, 2,800 short tons:[2] pellets, 1,000 short tons.[2]	$57 per short ton, basis 41 percent meal, hydraulic and expeller process, f. o. b. Valley area. $59 per short ton, basis 41 percent meal, hydraulic and expeller process, in Texas-Oklahoma, Arizona-New Mexico, and California areas. Market differentials apply to other qualities. Discount of $1.50 per short ton for solvent meal. Information on quantities and locations can be secured at the New Orleans PMS Commodity office.
Wool, shorn and pulled grease (including same scoured), 97,500,000 pounds.	Sales of wool will be made at prices reflecting not less than 115 percent of the price support appraisal value per pound, Boston basis, adjusted for net freight on wool stored outside the Boston storage area. Sales will be made ex-warehouse where the wool is stored. Available Boston PMA Commodity office.

[2] These same lots also are available at export sales prices announced today. The above prices will not be applicable to sales made in connection with drought relief programs carried out in disaster areas.

(Pub. Law 439, 81st Cong.)

Issued: July 17, 1953.

[SEAL]

M. B. BRASWELL,
Acting Executive Vice President,
Commodity Credit Corporation.

[F. R. Doc. 53-6485; Filed, July 22, 1953; 8:49 a. m.]

DEPARTMENT OF COMMERCE

Civil Aeronautics Administration

[Amdt. 22]

ORGANIZATION AND FUNCTIONS

PRINCIPAL OFFICERS

In accordance with the public information requirements of the Administrative Procedure Act, the description of the Organization and Functions of the Civil Aeronautics Administration is hereby amended.

Section 12, published in 17 F R. 7909, on August 29, 1952, and amended in 17 F R. 10574, published on November 19, 1952, is amended to read:

SEC. 12. *Principal officers.* The duties and responsibilities of the principal officers in the Office of the Administrator are as follows:

(a) *The Administrator* (1) Determines the policies of the Civil Aeronautics Administration.

(2) Directs the development and execution of its programs.

(b) *Assistant Administrator for Administration.* (1) Acts as principal assistant to the Administrator in the planning, coordination, and evaluation of the budgetary and personnel management, organization planning, general administrative services, and defense production activities of the Civil Aeronautics Administration.

(2) Acts as the Administrator during the absence of the Administrator from duty at his official headquarters.

(c) *Assistant Administrator for Program Coordination.* (1) Acts as the principal assistant to the Administrator in the planning, coordination, and evaluation of Civil Aeronautics Administration program operations.

(2) Plans, directs, and coordinates the program planning and evaluation activities of the Office of the Administrator, including the general aviation program for agricultural, industrial, executive and corporate, instructional and personal flying and the development of civil aviation through educational means.

(3) Acts as Administrator during the simultaneous absence of the Administrator and Assistant Administrator for Administration from duty at their official headquarters.

(d) *Executive Assistant.* (1) Assists the Administrator in matters that require his personal attention.

(2) Acts as Administrator during the simultaneous absence of the Administrator and the Assistant Administrators for Administration and Program Coordination.

This amendment shall become effective July 14, 1953.

[SEAL] F B. LEE,
Administrator of Civil Aeronautics.

Approved:

SINCLAIR WEEKS,
Secretary of Commerce.

[F. R. Doc. 53-6503; Filed, July 22, 1953; 8:52 a. m.]

[Amdt. 23]

ORGANIZATION AND FUNCTIONS

LOCATIONS OF, AND AREAS SERVED BY, AIRPORT DISTRICT OFFICES

In accordance with the public information requirements of the Administrative Procedure Act, the description of Organization and Functions of the Civil Aeronautics Administration is hereby amended.

This amendment eliminates Airport District Offices at Augusta, Maine; Albany, New York; Gravelly Point, Virginia; Charleston, West Virginia; and Louisville, Kentucky. It establishes a new Airport District Office at Jamaica, Long Island, New York. It revises section 43 (g) (3) (ii) published on May 14, 1953, in 18 F. R. 2802, and amended on June 20, 1953, in 18 F. R. 3569, on June 25, 1953, in 18 F. R. 3643, and on July 1, 1953, in 18 F. R. 3769.

Section 43 (g) (3) (ii) is revised to read:

SEC. 43. *Regions 1–6.* * * *
(g) *Airports division.* * * *
(3) *Airport district offices.* * * *
(ii) *Locations and areas served.*

Region 1:

Boston, Mass., 2200 U. S. Custom House—Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, and Connecticut.

Jamaica, Long Island, N. Y., 321 Federal Office Building, New York International Airport—New York and New Jersey.

New Cumberland, Pa., Harrisburg State Airport—Pennsylvania, Maryland, Delaware, and Virginia.

Columbus, Ohio, 409 Trautman Building—Ohio, Kentucky, and West Virginia.

Region 2:

Atlanta, Ga., 50 Seventh Street NE.—Georgia, North Carolina, South Carolina, and Tennessee.

Fort Worth, Tex., Administration Building, Meacham Field—Texas.

Jackson, Miss., Building 334, Jackson Army Air Base—Alabama, Louisiana, and Mississippi.

Miami, Fla. (Branch of Airport District Office at Atlanta, Ga.), Building 514, Miami International Airport—Florida, Puerto Rico, and Virgin Islands.

Oklahoma City, Okla., 406 Municipal Building—Arkansas and Oklahoma.

Region 3:

Chicago, Ill., 185 North Wabash Avenue—Illinois and Wisconsin.

Kansas City, Mo., City Hall—Kansas and Missouri.

Lansing, Mich., 124 West Ottawa Street—Michigan and Indiana.

Lincoln, Nebr., 311 Veterans' Administration Building, Twelfth and O Streets—Nebraska and Iowa.

St. Paul, Minn., 240 Commerce Building—Minnesota, North Dakota, and South Dakota.

Region 4:

Carson City, Nev., 319 North Carson Street—Nevada and Utah.

Denver, Colo., Stapleton Field—Colorado and Wyoming.

Helena, Mont., Montana Building—Montana and Idaho.

Phoenix, Ariz., New Terminal Building, Phoenix Sky Harbor Municipal Airport—Arizona and New Mexico.

San Francisco, Calif., 26th Floor, 100 McAllister Street—California.

Seattle, Wash., CAA Building, Boeing Field—Washington and Oregon.

Regions 5 and 6:

No Airport District Offices.

This amendment shall become effective June 29, 1953.

[SEAL] F. B. LEE,
Administrator of Civil Aeronautics.

[F. R. Doc. 53-6472; Filed, July 22, 1953; 8:46 a. m.]

Office of International Trade

[Case No. 157]

ATLANTIC & PACIFIC WIRE & CABLE CO., INC.

ORDER REVOKING AND DENYING LICENSE PRIVILEGES

In the matter of Atlantic & Pacific Wire & Cable Co., Inc., Martin Oboler, its president, Irving Rubin, its secretary and treasurer, 112–01 Northern Boulevard, East Elmhurst, Long Island, New York; Vicente Larrauri, 814 Cortlandt Ave., Bronx, New York; Julio Limantour, 10 East 61 Street, New York, New York, respondents; Case No. 157.

The respondents, Vincente Larrauri, Martin Oboler, Irving Rubin and Atlantic & Pacific Wire & Cable Co., Inc. (hereinafter referred to as A & P), having been charged by the Director, Investigation Staff, with a series of violations of the Export Control Act of 1949, as amended, and the regulations promulgated thereunder, duly appeared herein. Julio Limantour, also so charged, failed to appear, was given notice of all proceedings and is in default. Larrauri was represented by counsel throughout and the remaining respondents appeared in person. The charges were contained in a charging letter dated March 13, 1953, duly served on all respondents. A hearing was held before the Compliance Commissioner on May 19, 1953, in which all respondents except Limantour participated and all were fully heard.

The Compliance Commissioner has reported the facts with his recommendations and has transmitted the entire record to the undersigned Acting Assistant Director for Export Supply.

Now, upon considering the facts of this case, after reviewing the entire record and the report of the Compliance Commissioner, I hereby make the following

FINDINGS OF FACT

1. In June 1951, Vicente Larrauri, now residing at 814 Cortlandt Avenue, Bronx, New York, and Julio Limantour, residing at 10 East 61 Street, in New York, N. Y., were engaged in the export business in New York City and were dominant officers of J. L. Distributing Corporation, a corporation now dissolved but then transacting business at 10 East 61 Street, New York, N. Y.

2. From and including June 1951 to June 1952, the period involved herein and prior thereto, Atlantic & Pacific Wire & Cable Co., Inc. (hereafter referred to as A & P), was a corporation engaged in the stocking and distribution of wire to be used in the electrical industry, did business at 112–01 Northern Boulevard, East Elmhurst, Long Island, New York. Martin Oboler was its president and Irving Rubin, its secretary and treasurer.

3. That the acts hereinafter found to have been performed by Larrauri were performed by him with the knowledge of and in collaboration with Limantour and for the purpose of obtaining for both of them, either individually or through the medium of their corporation, J. L. Distributing Corporation, financial gain.

4. That the acts hereinafter found to have been performed by Oboler and Rubin were performed by them on behalf of A & P and for their joint gain either directly or through the medium of their interest in A & P.

5. That on or about the 15th day of June 1951, Larrauri and Limantour prepared an application for export license to export 10,000 pounds of resistance wire to be exported to a named consignee in Buenos Aires, Argentina, and in the said application they named A & P as the exporter and stated that the wire's end use would be, "For maintenance and repair of hospital and medical equipment. For purchaser's own use."

6. That they made these statements knowingly and with knowledge that, regardless of the possible fact that the named consignee might have been interested in purchasing resistance wire, he had made no contract with and had had no dealings with A & P, and that A & P was not and would not be the exporter and further with no basis whatever for them to assume that the end use stated by them was the true and intended end use.

7. That thereafter, on behalf of A & P, Oboler signed the said application and by so signing the same represented to the Office of International Trade that the statements therein made were true and that A & P had received an order from the named consignee for the commodity mentioned therein.

8. That he did so knowingly and with knowledge that, even if a sale were ultimately made to the named consignee, A & P had no order from him and was not to be the exporter in any event, the past practice and then contemplated procedure having been, in the event that a sale was completed, for the sale to be made either to J. L. Distributing Corporation or some other buying agent in New York.

9. That in so signing the said application Oboler did further represent to the Office of International Trade the truth of the statement therein contained to the effect that A & P had purchased the resistance wire intended to be exported to the named consignee when, in fact, assuming that the named consignee was desirous of receiving resistance wire, the wire for which said consignee had an import permit was nichrome wire and A & P had not purchased and did not have 10,000 pounds of nichrome wire for this potential transaction.

10. That thereafter, because of defects or omissions in the application, it was returned to A & P for correction. For the purpose of answering an inquiry as to the copper content of the resistance wire sought to be exported, Rubin wrote a letter to the Office of International Trade, resubmitting the application and therein stated that the wire sought to be exported contained 1560 pounds of nickel and 8440 pounds of copper.

11. This statement was knowingly made and with the knowledge that A & P had no order for wire of the stated copper content to be exported to the consignee named therein.

12. That at the time of the return of the application to A & P for correction, as stated in Finding 10, or following a subsequent return thereof, Oboler, on behalf of A & P signed the certification on the reverse thereof and therein certified that the wire sought to be exported was wire which the named purchaser had contracted to buy from A & P and which it had contracted to sell to the named purchaser and, in addition, either Oboler or Rubin did further state in the said application that the named consignee was also the purchaser and ultimate consignee.

13. That these statements were knowingly made and with the knowledge that A & P had no contract as represented therein with the named purchaser and that, regardless of whether there was or was not a potential transaction whereby the named ultimate consignee might ultimately receive some wire from the United States, such named ultimate consignee was to be neither the purchaser nor the intermediate consignee from whoever might be the exporter from the United States.

14. That thereafter, in reliance upon said application and all the statements and representations made by Larrauri, Limantour, Oboler, Rubin and A & P in connection therewith, the Office of International Trade issued to A & P an export license authorizing the export of 2,500 pounds of resistance wire, copper content 2,110 pounds, to the consignee named therein.

15. That after the receipt of such license, A & P placed an advertisement in a New York City newspaper of May 21, 1952, wherein it offered for sale 3,500 pounds of nichrome wire for export to Argentina with export license for immediate shipment.

16. That A & P placed this advertisement knowingly with reference to and intending thereby to offer nichrome wire for sale together with the license it had received as set forth in Finding 14, which license did not authorize the export of nichrome wire.

17. That shortly after publication of said advertisement, the export license was surrendered by Oboler to the Office of International Trade.

And, from all the foregoing, I conclude that Larrauri, Limantour, Oboler, Rubin and A & P did knowingly make false representations and conceal material facts from the Office of International Trade in the preparation and submission of the application for export license involved herein in violation of Export Control Regulations, 15 CFR 38.1 (a) (1) and (2) and that A & P Oboler and Rubin did further knowingly offer for sale for exportation a commodity for the exportation of which their advertisement indicated they held and would furnish an export license, in violation of Export Control Regulations, 15 CFR 381.3 (b) (3) (ii).

The Compliance Commissioner, in his report, has considered the manner in which the respondents came to commit the acts resulting in the violations herein found, the motives of the various parties, the explanations given by them, the relative responsibility of the respondents and has stated that Limantour and Larrauri "sparked the series of events which resulted in this case by their deliberate attempt to use A & P as the applicant (for the license) rather than their own company, because they felt that A & P was in a better position to get the license" and that Oboler and Rubin (of A & P), "demonstrate such a careless and reckless disregard of their obligations under the Act and the Regulations that a substantial suspension of their export privileges is necessary." He adds, "Assuming that they (Oboler and Rubin) by reason of their unfortunate experience here, have been corrected for future conduct, the purpose of this proceeding would not be vindicated if the attention of the export trade as well as persons not habitually engaged therein is not directed to the fact that ignorance of the regulations, whether by neglect or design, will not be condoned or regarded as a mitigating circumstance at this late stage of export controls." He has recommended that Limantour and Larrauri be suspended from all export privileges excepting exports to Canada for nine months and that the others be similarly suspended for twelve months, together with certain collateral provisions hereinafter set forth.

His report and recommendations have been carefully considered by me and I have concluded that the terms of the recommended order are reasonable, necessary and proper to achieve effective enforcement of the law and they are, accordingly, adopted.

Now, therefore, it is ordered as follows:

I. All outstanding validated export licenses held by or issued in the names of the above-named respondents, or any of them, or in which they appear or participate as purchaser, intermediate or ultimate consignee, or otherwise, are hereby revoked and shall be forthwith returned to the Office of International Trade for cancellation.

II. Respondents and each of them, are hereby denied and declared ineligible to exercise the privilege of participating directly or indirectly in any manner or capacity in the exportation of any commodity from the United States to any foreign destination, excepting Canada. Without limitation of the generality of the foregoing, participation in an exportation shall be deemed to include and prohibit respondents' participation (a) in the filing of any validated export license application, (b) in the obtaining or using of any validated or general export license or other export control document, (c) in the receiving in any foreign country of any exportation from the United States, and (d) in the financing, forwarding, transporting, or other servicing of exports from the United States.

III. Such denial of export privileges shall extend not only to the named respondents, their successors or assigns, directors, officers, associates, partners, representatives, agents, and/or employees, but also to any person, firm, corporation or business organization with which they, or any of them, may be now or hereafter related by ownership, control, position of responsibility, or other connection in the conduct of trade involving exports from the United States or services connected therewith.

IV. No person, firm, corporation, or other organization shall knowingly apply for or obtain any license, shipper's export declaration, bill of lading, or other export control document relating to any exportation from the United States under validated or general licenses, or otherwise, to or for the named respondents or any of them, or any person, firm, corporation or other organization within the scope of Part III above, without prior disclosure of such facts to, and specific authorization from the Office of International Trade.

V This order shall become effective as respects all respondents on the date hereof and shall be effective for respondents Limantour and Larrauri to and including the expiration of nine months from the date hereof and for respondents Rubin, Oboler and A & P to and including twelve months from the date hereof.

Dated: July 17, 1953.

WALLACE S. THOMAS,
Acting Assistant Director for Export Supply.

[F. R. Doc. 53-6487; Filed, July 22, 1953; 8:49 a. m.]

ECONOMIC STABILIZATION AGENCY

Office of Rent Stabilization

DESIGNATION OF CERTIFYING OFFICER

Jacob Muchin, duly appointed Deputy Director (Program), Office of Rent Stabilization is hereby designated as Certifying Officer for the Office of Rent Stabilization.

As Certifying Officer, the said Jacob Muchin, is hereby authorized to authenticate, certify or attest documents, records, reports, rules, regulations, orders, memoranda, copies of or entries in files, and other written material in the control and custody of the Office of Rent Stabilization and to certify and attest as to the absence or lack thereof.

Issued and effective this 20th day of July 1953.

GLENWOOD J. SHERRARD,
Director of Rent Stabilization.

[F. R. Doc. 53-6500; Filed, July 22, 1953; 8:51 a. m.]

FEDERAL POWER COMMISSION

[Docket Nos. ID-1201 and ID-1202]

CLAUDE E. YORK AND WALTER E. BECKJORD

NOTICE OF ORDERS AUTHORIZING APPLICANTS TO HOLD CERTAIN POSITIONS

JULY 17, 1953.

Notice is hereby given that on July 17, 1953, the Federal Power Commission issued its orders adopted July 15, 1953, authorizing applicants to hold certain positions pursuant to section 305 (b) of the

Federal Power Act in the above-entitled matters.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 53-6475; Filed, July 22, 1953; 8:47 a. m.]

[Docket No. G-2209]

CITIES SERVICE GAS CO.

NOTICE OF APPLICATION

JULY 17, 1953.

Take notice that Cities Service Gas Company (Applicant) a Delaware corporation with its principal place of business in Oklahoma City, Oklahoma, filed on July 6, 1953, an application for a certificate of public convenience and necessity authorizing the construction and operation of a meter station in Johnson County, Missouri, at a point on its system near Warrensburg, Missouri, for the sale of natural gas to the Missouri Public Service Company for resale in Clinton, Missouri. Applicant proposes to utilize the facilities described for the sale and delivery of natural gas to Missouri Public Service Company for resale in Clinton, Missouri, by the Missouri Public Service Company and through facilities proposed to be constructed and operated by the Missouri Public Service Company as outlined in its application filed at Docket No. G-2157.

The natural gas requirements for the years 1953 through 1956 for firm and interruptible customers are estimated to be as follows:

	Firm			
	Customers	Peak-day demand	Peak-day served	Annual demand
		Thousands	*Thousands*	*Thousands*
1953-54	1,200	1,012	324	182,100
1954-55	1,725	1,922	437	261,000
1955-56	2,200	2,832	597	311,600

	Interruptible			
	Peak-day demand	Peak-day served	Annual requirements	Annual served
	Thousands	*Thousands*	*Thousands*	*Thousands*
1953-54	6,069	0	2,302,111	1,726,583
1954-55	6,069	0	2,302,111	1,726,583
1955-56	6,069	0	2,302,111	1,726,583

The estimated over-all capital cost of facilities is stated to be $6,450 the cost of which will be defrayed from company funds.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before the 5th day of August, 1953. The application is on file with the Commission for public inspection.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 53-6476; Filed, July 22, 1953; 8:47 a. m.]

[Docket Nos. G-1693, G-1473, G-1649, G-1727, G-1737]

TEXAS EASTERN TRANSMISSION CORP. ET AL.

NOTICE OF ORDER AMENDING ORDER ISSUING CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY

JULY 17, 1953.

In the matters of Texas Eastern Transmission Corporation, Docket No. G-1693; Alabama-Tennessee Natural Gas Company, Docket No. G-1473; Tennessee Gas Company, Docket No. G-1649; Shippensburg Gas Company, Docket No. G-1727; Consumers Gas Company, Docket No. G-1737.

Notice is hereby given that on July 17, 1953, the Federal Power Commission issued its order adopted July 15, 1953, further amending order (18 F. R. 919) issuing certificates of public convenience and necessity in the above-entitled matters.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 53-6477; Filed, July 22, 1953; 8:47 a. m.]

[Docket No. G-2128]

COLORADO-WYOMING GAS CO.

NOTICE OF FINDINGS AND ORDER ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

JULY 17, 1953.

Notice is hereby given that on July 16, 1953, the Federal Power Commission issued its findings and order adopted July 15, 1953, issuing certificate of public convenience and necessity in the above-entitled matter.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 53-6478; Filed, July 22, 1953; 8:47 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 54-164]

INTERNATIONAL HYDRO-ELECTRIC SYSTEM

ORDER AUTHORIZING SIXTY-DAY EXTENSION OF BANK LOAN

JULY 17, 1953.

Bartholomew A. Brickley, Trustee of International Hydro-Electric System ("IHES") a registered holding company now in process of reorganization pursuant to sections 11 (b) (2) and 11 (d) of the Public Utility Holding Company Act of 1935 ("the act"), having filed with this Commission an application for authority to renew and extend for sixty days from July 27, 1953, a balance of $1,345,000 then falling due on the loan made to IHES by The Chase National Bank of the City of New York; said loan extension to be payable at any time after date with interest at the rate of 3¼ percent per annum; and

Due notice having been given of the filing of said application, and no hearing having been requested or ordered thereon; and the Commission finding that the applicable provisions of the act and the rules thereunder are satisfied and that no adverse findings are necessary, and deeming it appropriate in the public interest and in the interest of investors and consumers that said application be granted forthwith, subject to the further approval of the United States District Court for the District of Massachusetts ("the Enforcement Court")

It is ordered, That said application be, and it hereby is, granted forthwith, subject to the further approval of the Enforcement Court and to the terms and conditions of Rule U-24.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 53-6479; Filed, July 22, 1953; 8:47 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 10442]

VERSLUIS RADIO AND TELEVISION, INC.

ORDER CONTINUING HEARING

In re application of Versluis Radio and Television, Inc., Muskegon, Michigan; for a construction permit for a new television broadcast station; Docket No. 10442, File No. BPCT-1208.

The session scheduled for July 16, 1953, at 4:00 p. m. having been cancelled by agreement among the parties, *it is ordered,* That the hearing is continued indefinitely pending further order.

Dated: July 16, 1953.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 53-6480; Filed, July 22, 1953; 8:49 a. m.]

[Docket No. 10592]

MINNESOTA VALLEY BROADCASTING CO.

ORDER DESIGNATING APPLICATION FOR HEARING ON STATED ISSUES

In re application of Minnesota Valley Broadcasting Company (KTOE) Mankato, Minnesota; for construction permit; Docket No. 10592, File No. BP-8702.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 15th day of July 1953:

The Commission having under consideration the above-entitled application for construction permit to increase nighttime power from 1kw to 5kw; and

It appearing, that the applicant is legally, technically, financially and otherwise qualified to operate Station KTOE as proposed, that no interference would be caused to any existing or proposed station, but that the proposed operation will be limited at night to the 5.06 mv/m contour, whereas the normally protected contour for this class station

(III–A) is the 2.5 mv/m contour and otherwise not comply with the Standards of Good Engineering Practice; particularly with reference to the excessive ratio of population lost within the normally protected contour to population served; and

It further appearing, that pursuant to section 309 (b) of the Communications Act of 1934, as amended, the subject applicant was advised by letter dated April 15, 1953, of the aforementioned deficiencies and that the Commission was unable to conclude that a grant of the application would be in the public interest; and

It further appearing, that the applicant filed a reply on April 23, 1953; and

It further appearing, that, the Commission, after consideration of the reply, is still unable to conclude that a grant would be in the public interest;

It is ordered, That, pursuant to section 309 (b) of the Communications Act of 1934, as amended, the said application is designated for hearing, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine the areas and populations which may be expected to gain or lose primary service from the operation of the proposed station, and the availability of other primary service to such areas and populations.

2. To determine whether the installation and operation of the proposed stations would be in compliance with the Commission Rules and Standards of Good Engineering Practice Concerning Standard Broadcast Stations with particular reference to the excessive ratio of population lost within the normally protected contour to population served.

Released: July 17, 1953.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 53-6491; Filed, July 22, 1953; 8:50 a. m.]

[Change List No. 76]

CANADIAN BROADCAST STATIONS

LIST OF CHANGES, PROPOSED CHANGES, AND CORRECTIONS IN ASSIGNMENT

JUNE 16, 1953.

Notification under the provisions of part III, section 2 of the North American regional broadcasting agreement.

List of changes, proposed changes, and corrections in assignments of Canadian Broadcast Stations modifying Appendix containing assignments of Canadian Broadcast Stations (Mimeograph 47214–3) attached to the recommendations of the North American Regional Broadcasting Agreement Engineering Meeting, January 30, 1941.

CANADA

Call letters	Location	Power (kw.)	Antenna	Schedule	Class	Probable date to commence operation
			590 kilocycles			
CKRS	Jonquiere, Quebec (assignment of call letters).	1 kw.				
			850 kilocycles			
CHRD	Red Deer, Alberta (PO: 1230 kc.-250 w)	1 kw.	DA-N	U	II	Mar. 15, 1954
			910 kilocycles			
CHRL	Roberval, Quebec (PO: 1340 kc.-250 w.)	1 kw.	DA-N	U	III	Mar. 15, 1954
			1080 kilocycles			
CHED	Edmonton, Alberta (assignment of call letters).	1 kw.		[1]		
			1230 kilocycles			
CFHR	Hay River, Northwest Territory (PO: 100 w.)	250 w.	ND	U	IV	Immediately.
			1270 kilocycles			
NEW	St. Joseph d'Alma, Quebec	1 kw.	DA-N	U	III	Mar. 15, 1954
			1280 kilocycles			
NEW	Montreal, Quebec	5 kw.	DA-1	U	III-A	Mar. 15, 1954
			1340 kilocycles			
CJQO	Quebec, Quebec (change in call letters from CJNT).	250 w.				
			1380 kilocycles			
CKLC	Kingston, Ontario (assignment of call letters).	1 kw.				
			1400 kilocycles			
CKRB	St. Georges, Quebec (assignment of call letters).	250 w.				
			1490 kilocycles			
CFHR	Hay River, Northwest Territory (delete—see assignment on 1230 kc.).					
			1600 kilocycles			
CHVC	Niagara Falls, Ontario (night time power increased).	5 kw.	DA-N	U	III	Mar. 15, 1954

[SEAL] FEDERAL COMMUNICATIONS COMMISSION,
T. J. SLOWIE,
Secretary.

[F. R. Doc. 53-6492; Filed, July 22, 1953; 8:50 a. m.]

INTERSTATE COMMERCE COMMISSION

[4th Sec. Application 28287]

CANNED GOODS FROM NEW ORLEANS, LA., TO ALBANY, GA.

APPLICATION FOR RELIEF

JULY 20, 1953.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: R. E. Boyle, Jr., Agent, for Atlantic Coast Line Railroad Company and other carriers.

Commodities involved: Canned goods, carloads (import traffic)

From: New Orleans, La.

To: Albany, Ga.

Grounds for relief: Competition with rail carriers, circuitous routes.

Schedules filed containing proposed rates: C. A. Spaninger, Agent, tariff I. C. C. No. 1369, supp. 3.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W LAIRD,
Acting Secretary.

[F. R. Doc. 53-6480; Filed, July 22, 1953; 8:47 a. m.]

[4th Sec. Application No. 28288]

ASPHALT FILLER FROM CHATSWORTH, GA., TO OFFICIAL TERRITORY

APPLICATION FOR RELIEF

JULY 20, 1953.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: R. E. Boyle, Jr., Agent, for carriers parties to schedules listed below.

Commodities involved: Asphalt filler, consisting of pulverized soapstone, pulverized talc tailings, pulverized slate or dust, carloads.

From: Chatsworth, Ga.

To: Points in Indiana, Michigan, Ohio, Pennsylvania, West Virginia, and Wisconsin.

Grounds for relief: Competition with rail carriers, circuitous routes, to apply over short tariff routes rates constructed on the short-line distance formula, change in commodity description.

Schedules filed containing proposed rates: C. A. Spaninger, Agent, tariff I. C. C. No. 1351, supp. 14; C. A. Spaninger, Agent, tariff I. C. C. No. 1324, supp. 32.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W. LAIRD,
Acting Secretary.

[F. R. Doc. 53-6481; Filed, July 22, 1953; 8:48 a. m.]